

IN THE HIGH COURT OF TELANGANA AT HYDERABAD**W.P. No. 16107 of 2018**

Between:

Sunil G. Manghanani

... Petitioners

And

State of Telangana, represented by its
& others

... Respondents

JUDGMENT PRONOUNCED ON: 05.06.2023

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : yes
3. Whether Their Lordships wish to
see the fair copy of the Judgment? : yes

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 16107 of 2018**

% 05.06.2023

Between:

Sunil G. Manghanani

..... Petitioner

And

\$ State of Telangana, represented by its
Principal Secretary to Government,
& others

... Respondents

< Gist:

> Head Note:

! Counsel for the Petitioner : Mr E. Madan Mohan Rao
^ Counsel for Respondents : G.P for General Admn.
Advocate General

? Cases Referred:

HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 16107 of 2018****ORDER:**

Heard the Learned Counsel for the Petitioner, learned Government Pleader for General Administration and Learned Advocate General appearing for Respondents.

2. This Writ Petition is filed praying to issue a Writ of Mandamus directing Respondent no.2 and 3 to furnish information pertaining to information of Evacuee Property allotted in favor of late Smt. RadhibaiManghanani in respect of land admeasuring Ac.11.23 guntas in Survey Nos. 181, 212, 234, 292, 488 and 489 of Machirevula Village of Rajendranagar Mandal in Rangareddy District through allotment order No. Hyd-59, dated 07.03.1969 and sanadNo.RSC(b)/LAND /HYD-59, dated 25.11.1970 in favour of Smt. Radhibhai and request to furnish all the papers in current file and note file of the above said allotment order No.HYD-59 dated 07.03.1969 in the file No.SEP3/212/1982 issued by Settlement Commissioner, Bombay and direct the respondent No.2 & 3 to furnish basic property register (BPR),

SEP3 P.Rs. (personal register) for the year 1982 and record register for the years 1982, 1983, 2017, 2022 and 2023 under Right To Information Act, 2005.

3. The case of the petitioner, in brief, is as follows:

a) Petitioner on 27.04.2017 had made an application by paying requisite fee, to respondent no. 4 under the provisions of Right to Information Act, 2005 requesting to furnish information regarding the evacuee property allotted in favour of late Smt. Radhibai Manghnani in respect of land admeasuring Ac.11.23 guntas in Survey Nos. 181, 212, 234, 292, 488 and 489 of Machirevula Village of Rajendranagar Mandal in Rangareddy District through allotment order No. Hyd-59, dated 07.03.1969 and sanadNo.RSC(b)/LAND /HYD-59, dated 25.11.1970 and to furnish all papers issued by the Settlement Commissioner, Bombay.

b) In response to the application of the petitioner, respondent no.4 addressed a letter vide CCLA U.O. Note RTI/475/2017, dated 29.04.2017 to the Assistant Secretary (Settlements), office of respondent no.2 to furnish information as sought in the petitioner's application.

c) The Assistant Secretary (Settlements), O/o respondent no. 2 vide letter U.O.NoteSettleII/250/2017 dated 26.05.2017 stated that the personal registers are maintained in chronological order and that personal register of 1982 of SEP3 is not available and that the record section was once again requested to trace the personal record and that soon after the same would be supplied to the petitioner.

d) Aggrieved by the orders, petitioner preferred an Appeal dated 01.06.2017 before Appellate Authority i.e., 3rd respondent, under the provisions of Right to Information Act, 2005 and the 3rd respondent till date had not disposed off the petitioner's appeal.

e) Moreover, under Section 19 (6) of Right to Information Act, 2005, respondent no.3 is bound to dispose of the appeal within a period of 30 days from the date of receipt of the same. Even though, the petitioner's appeal was on 01.06.2017, which had been received by the respondent no.3 office on 05.06.2017, no orders have been passed by the 3rd respondent till as on date.

f) Delay in furnishing the requisite information to the petitioner, not only amounts to the contravening the provisions of Right to Information Act, 2005 but is also causing hardships to the petitioner. Hence the Writ Petition.

4. The case of the respondents, in brief, is as follows:

a) Against the appeal preferred by the petitioner, the then Public Information Officer (PIO) issued Note vide No.RTI/475/17 dated 21.06.2017 to the Assistant Secretary (Settlement) & Deemed Public Information Officer informing Personal Registers of SEP3 Seat only has been traced by the Record Section and had been forwarded to the Settlement Section along with the copy of the petitioner's 1st appeal and requesting to furnish the information to the petitioner and the same had been informed to the petitioner.

b) In response, the Assistant Secretary (Settlement) & Deemed Public Information Officer vide U.O.NoteSett.II/110/19 dated 30.03.2019 informed that as per instruction in U.O.Note No.NA2/14/18 dated 29.10.2018, information cannot be provided under section 8(1)(a)(e)(h) of

the Right to Information Act, 2005 and the same has been furnished to the Petitioner vide RTI,475/17, dated 09.04.2019.

c) A notice had been received from T.S.I.C in Complaint No. 6008/CIC/21 dated 22.07.2022 directing the respondent no.2 to appear before the Commission and the Public Information Officer.

d) On 03.08.2022, the State Information Commissioner vide orders in Complaint No.6008/CIC/21 directed the Public Information Officer to invite the Applicant/Petitioner for personal inspection of records on 18.08.2022.

e) Meanwhile the Applicant had filed this Writ Petition and Public Information Officer had appeared before the court and the appearance of the Public Information Officer had been dispensed with, directing the Public Information Officer to furnish the information sought for by the petitioner within a period of 4 (Four) Weeks.

f) Basing on the said orders of the court, a U.O.Note No. RTI-II(1)/1220/22, dated 16.12.2022 was issued to the Public Information Officer requesting to inform a convenient date

and time for verification of records by the petitioner. The Special Officer (Settlement) & deemed Public Information Officer vide U.O.No.RTI.Sectt.II/46/22 dated 13.01.2023 informed that the petitioner may attend office on 18.01.2023 to verify records and the petitioner had been informed about the same vide Ref.No.RTI-II(1)/1220/22 dated 13.01.2023.

g) Accordingly, the petitioner had visited the office on 18.01.2023 and verified the records from 03:30 PM to 04:30 PM approximately for an hour and had given an undertaking that the said file is not available and the Petitioner had suppressed the above fact before the court.

h) The Public Information Officer had been prompt and responded in time but it is the superior Deemed Public Information Officer, who vide U.O.Note Sett.II/110/19 dated 30.03.2019 informed that vide instructions in U.O.Note No.NA2/14/18 dated 29.10.2018 cannot be provided under section 8(1)(a)(e)(h) of the Right to Information Officer, 2005.

i) However, a U.O.Note No.RTI-II(1)/1220/22 dated 27.01.2023 was again issued to the Special Officer & Deemed

Public Information Officer, requesting to the search and trace out the said file again and in the event of availability of the same, the same be furnished to the Applicant/Petitioner.

j) The Public Information Officer had made all efforts in furnishing the information to the petitioner as per the orders of T.S.I.C and as per the orders of this court. Hence there is no deviation in following the orders of the court. Hence the Writ Petition is liable to be dismissed.

5. PERUSED THE RECORD:

A. The Proceedings in U.O.Note Settle II/250/2017 dated 26.05.2017 read as under:

"The attention of the A.A.C. (RTI) is invited to the reference cited, wherein while enclosing the original petition of M/s. Sri. Sunil G. Manghnani R/o Hyderabad District has requested to provide the information of Evacuee Property allotted in favour of late Smt. Radhibai Manghanani in respect of land admeasuring Acre.11.23 Guntas in Survey No.s 181,212,234,292,488 and 489 of Manchirevula Village of Rajendranagar Mandal in Rangareddy District through allotment order No. Hyd-59, dt:07.03.1969 and sanadNo.RSC(b)/LAND/HYD-59, 3439578/70 DT:25.11.1970 in favour of Smt.

Radhibai He request to furnish all the papers in current file and note file of the above said allotment Order No.HYD-59 Dt:7.3.1969 in file No. SEP3/212/1982 issued by Settlement Commissioner, Bombay, under RTI Act. 2005.

In this regard, it is submitted that the Personal Register's of the related period have been verified. The Personal Register's records are maintained in chronological manner, year wise and file wise. The Personal Register of 1982 of SEP3 is not available. The records can be traced through personal register only.

The Record section is once again requested to trace Personal Register of 1982 of SEP3 section.

In view of the above, it is informed that efforts are being made to trace record through Personal Register. Soon after tracing the Personal Registers & records, the same will be supplied.

Hence, the RTI section is requested to inform the applicant accordingly furnish the same after receiving from record under RTI Act, 2005."

B. CCLA'S U.O.Note No.R TI/475/2017, dated 21.06.2017 is extracted herunder:

"Attention of the A.S (Settlements) is invited to the reference cited through which Sri Sunil G. Manghnani, R/o Hyderabad has filed 1st Appeal before the First

Appellate Authority under RTI, 2005 for not furnishing the requisitioned information.

Vide ref. 2nd cited, the A.A.C.(Admn.) has informed to the A.S.(Settlement) that SEP3 P.RS. has been traced by the Record Section and sent to the Settlement Section.

A copy of the 1st appeal along with enclosures is sent herewith to the A.S. (Settlements), with a request to furnish information as desired by the applicant under RTI Act, 2005 pertaining to fileNo.SEP3/212/1982, dt: 07.03.1969 immediately so as to avoid further Appeal before APIC."

C. CCLA'S U.O.Note.Sett.II/110/2019, dated 30.03.2019 is extracted hereunder:

"In pursuance to the reference 1st cited, it is to inform that the information sought by Sri. K.Krishna Mohan, under RTI Act, 2005 is furnished as under:

Sl. No	Information requested	Reply given
1	Allotment order No. Hyd-59, dated 07.03.1969 in file No.SEP3/212/1982.	It is informed that, as per the instruction issued in the reference 3 rd cited the information cannot be provided under section 8(1)(a)(e)(h) of the RTI Act, 2005.

D. Counter Affidavit filed by the respondents, in particular, Paragraphs 4, 14, 15 & 16 read as under:

“Para 4. The then PIO had issued Note No. RTI/475/17, dated 21.06.17 to the Asst. Secretary (Settlement) & Deemed Public Information Officer informing that the Personal Registers of SEP3 Seat only has been traced by the Record Section and sent the same to the Settlement Section along with the copy of the 1st appeal filed by the petitioner and requested to furnish the information as desired by the petitioner pertaining to File No. SEP3/212/1982, dt.7.3.1969, and informed the same to the petitioner herein.

Para 14. It is further submitted that the P.I.O. has promptly responded time to time, and the record which sought by the applicant was not furnished by the deemed P.I.O. who is superior to the P.I.O. In fact, the deemed P.I.O. who is superior to the P.I.O. vide their U.O.Note Sett.II/110/19, Dt: 30.03.19 **informed that as per instructions in U.O.Note No. NA2/14/18, Dt: 29.10.18, the information cannot be provided U/s 8(1)(a)(e)(h) of the RTI Act, 2005.** In addition to, the applicant himself personally verified Record Room on 18.01.2023 and thoroughly verified all records

an hour and given an undertaking that the said file was not available.

Para 15. However, an U.O. No.RTI - II(1)/1220/22, Dt: 27.01.2023 was again issued to the Special Officer & deemed PIO requesting to search once again thoroughly in Record Room as well as in Sections to trace out the file, and if in case, the file is traced out, the same will be furnished to the applicant.

Para 16. Therefore, it is humbly submitted that the P.I.O. has made all efforts in furnishing the information to the petitioner as per the orders of T.S.I.C. and Hon'ble High Court and further the petitioner visited the office on 18.01.2023 and the records were searched in the presence of the petitioner and the same was not traced. The petitioner have given an undertaking after due search of record room that the record was not available. Hence, there is no deviation of orders of the Hon'ble High Court."

E. Reply of the Petitioner to the Counter Affidavit filed by the Respondents, in particular Para 6 is extracted below:

"6. It is submitted that therefore 4th Respondent letter dt. 09.04.2019 to the petitioner stating that the allotment order and sanad information in the said

SEP3/212/1982 cannot be provided under 8(1)(a)(e) & (h) of RTI Act, 2005 is wholly illegal, arbitrary and deserves to be disregarded by this Hon'ble Court in the light of the law laid down by this Hon'ble Court in Malani case which had held that the lands so mentioned in the allotment orders constitute the lands of the allottees which the State is under an obligation to allot and therefore any information pertaining to the allotment orders and sanad may not constitute any information which effects sovereignty and integrity of the India 8(1)(a) and non receipt of information held by the State in its Fiduciary capacity, the disclosure of which may be done only in larger public interest 8(1)(e) of the RTI Act

7. It is further submitted pursuant to the orders of this Hon'ble Court dt. 07.12.2022 in the instant Writ Petition the Respondents had been directed to provide the said information regarding SEP3 PRS and the 4th Respondent vide Letter dt. 16.12.2022 directed Petitioner to appear before it for inspection of the said records and the Petitioner on 18.01.2023 had gone to the CCLA office wherein the 4th Respondent Office placed several records in front of him and asked him to search for the said record pertaining to him (SEP3 PRS). It is submitted that this was wholly irregular and absurd procedure as Petitioner did not know the contents of CCLA record room nor could he find the concerned SEP3 PRs on the basis of which the allotment order and sanad certified copies may be traced. It is submitted that the

Respondents in particular 4th Respondent is repeatedly misleading the petitioner and this Hon'ble Court to ensure that the said personal registers is never found so that the certified copy of the allotment order and sanad may never be given to the petitioner to prevent the petitioner from approaching the Revenue Authorities to make relevant changes in the Revenue Record. **Hence the Respondents in particular the 4th Respondent may be directed to provide SEP3 PRs so that the allotment order and sanad may be traced in accordance with the law laid down by the Apex Court and prevent the Respondent State from claiming ownership of the said lands."**

F. Representation of the petitioner under Right to Information, 2005 to The Public Information Officer, Office of Chief Commissioner of Land Administration, Nampally, Hyderabad, reads as under:

"I inform you that I need of information of evacuee property allotted in favour of Late Smt. Radha bai in respect of land admeasuring acre 11. 23 gunts in Sy.No's 181,212,234,292,488 and 489 of Mancheruvula village of Gandipet Mandal (formerly Rajendernagar Mandal) in Ranga Reddy District thorough allotment order No. Hyd/59 dated 07-03-1969 and snand No. RSC(B)/Land/Hyd-59, 3439578/70 dated 25-11-1970 in

favour of smt. Radha Bai. **Therefore I request you to furnish all the papers in current file and Note file of the above said allotment order No.Hyd.59 dated 7-3-69 in File No. SEP/3/212/1982 issued by the Settlement commissioner, Bombay.**

I am enclosing herewith the requisite fees under the RTI Act by way of Indian Postal order of Rs. 19 with this application."

DISCUSSION AND CONCLUSION

6. The specific case of the petitioner is that the petitioner as a GPA holder of Smt Radhi Bhai had made various efforts to obtain certified copies of the allotment order No. Hyd.59, dated 07.03.1969 and Sanad No. RSC(b)/LAND /HYD-59, dated 25.11.1970 in favour of Smt Radhi Bhai for land admeasuring Ac.11.23 guntas in Survey Nos. 181, 212, 234, 292, 488 and 489 of Manchirevula Village of Rajendranagar Mandal in Ranga Reddy District. It is the further case of the petitioner that in a query under the RTI Act, the said allotment order is in fact in file No. SEP3/212/1982 which was issued by Settlement Commissioner, Bombay. The petitioner as GPA holder of Smt Radhi Bhai made various efforts to obtain certified copies of the said allotment order and SANAD, but failed to succeed and that the petitioner addressed a

representation dated 01.06.2017 and the same was not considered and hence, the petitioner approached this Court by filing this writ petition.

7. The 4th respondent vide letter dated 21.06.2017 (referred to and extracted above) has stated that the concerned SEP 3 P.Rs has been traced by the Record Section and sent to the Settlement Section, though however a contrary letter was issued on 26.05.2017 stating that the said SEP3 P.Rs. is not available and shall be traced by making efforts. The proceedings dated 30.03.2019 filed along with the counter affidavit, issued by the Assistant Secretary (Settlement), Office of the Chief Commissioner of Land Administration, Hyderabad, T.S. Referred to at para 14 of the Counter Affidavit filed by the respondents refers to the application filed by the petitioner and it is stated thereunder that as per instructions dated 29.10.2018, vide CCLA's U.O. Note No.NA/14/2018, the information sought for by the applicant cannot be provided under Clause 8(1)(a)(e)(h) of the RTI Act, 2005 but curiously however at para 15 of the Counter Affidavit filed by the respondents in February 2023, it is stated efforts would be made to search once again

thoroughly in record room as well as in sections to trace out the file, and if in case, the file is traced out the same will be furnished to the petitioner.

8. A bare perusal of the para 4 of the counter affidavit referred to and extracted above indicates, a reference to the PIO that he had issued note dated 21.06.2017 addressed to the Assistant Secretary (Settlement) and Deemed Public Information Officer informing that the personal registers of SEP3 only has been traced by the Record Section and sent the same to the Settlement Section along with the copy of the 1st appeal filed by the petitioner and requested to furnish the information as desired by the petitioner pertaining to file No.SEP3/212/1982, dated 07.03.1969 and informed the same to the petitioner. But curiously para 14 of the counter on contrary refer to the proceedings dated 30.03.2019 and the note dated 29.10.2018, wherein it is held that the information cannot be provided under Section 8(1)(a)(e)(h) of the RTI Act, 2005. This Court opines that the contention as per letter dated 30.03.2019 that the information cannot be

provided to the petitioner under Section 8(1)(a)(e)(h) of the RTI Act, 2005 cannot be sustained. By reason of Section 22 of RTI Act, provisions of RTI Act 2005 shall have effect notwithstanding anything inconsistent therewith contained in any other law. It only means that even if there is a question of privilege involved, RTI Act compels furnishing of information unless and until furnishing of information is barred, under Section 8(1) of RTI Act.

9. The relevant paragraph of judgment dated 04.12.2008 in W.P.No.16717 of 2008, wherein the issue of consideration before the Court pertains to furnishing Muntakhab, it is held that even if the Muntakah is considered as privileged document under Section 74 read with 123 of Evidence Act still public authority as defined under Section 2(h) of RTI Act cannot refuse to furnish the same to the applicant. The relevant paragraphs of the said judgment are extracted hereunder:

“Parliament has expressed very clearly on information about which there is no obligation to give such information to any citizen. Even with

regard to exemption material under Section 8(1) of RTI Act, as per Section 8(2) of RTI Act, if public interests in disclosure outweighs productive interests, public authority may allow access to information notwithstanding exemptions under Section 8(1) of RTI Act or Official Secrets Act. Section 9 of RTI Act prohibits giving information, which involves infringement of copy right. Under Section 9 of RTI Act, even with regard to exempted information, if a document contains information which is not exempt, public authority may decline to grant exempted information and allow access to other information, which is not exempted.

The overview of RTI Act especially Sections 6, 7, 8 read with Sections 2(f) and 2(i) of RTI Act, leads to conclusion that endeavour of legislation is to harmonise conflicting public and private interests. If information is available with public authority, unless and until it is one of the categories mentioned in Section 8(1), there should not be any objection for furnishing information subject to procedural compliance under RTI Act. Even the information regarding private persons can also be made available after Section 11 of RTI Act is complied with. Theory of 'implied bar' does not apply to a Law, which is made to give full scope to fundamental rights. Section 3 of RTI Act, which confers on every citizen the right to information is manifestation of fundamental rights under Article

19(1)(a) of Constitution. Unless such a right is curtailed by Law made by competent Legislature, by executive constructions the purpose of Law cannot be defeated. Parliament has exempted only certain categories of documents as enumerated under Section 8 of RTI Act with regard to which there is no obligation to furnish information. **Explicit exemption of documents under Section 8(1) of RTI Act conclusively presupposes that RTI Act does not impliedly bar furnishing of information with regard to any information as defined under Section 2(f) read with 2(i) of RTI Act.**

10. Taking into consideration the specific averments made in the counter in paras 4 and 15 in particular contrary pleas taken in paras 14 and 15 of the counter affidavit, (referred to and extracted above) duly considering the relevant provisions of RTI Act referred to and extracted above and the view taken in W.P.No.16717 of 2008 and also para 6 of the reply affidavit of the petitioner referred to and extracted above, the writ petition is allowed as prayed for and respondents 2 and 3 are directed to furnish information to the petitioner as sought for by the petitioner vide application dated 01.06.2017, filed under the

provisions of Right to Information Act,2005, which was received by the 3rd respondent on 05.06.2017 pertaining to Evacuee property allotted in favor of late Smt. Radhibai Manghanani in respect of land admeasuring Ac.11.23 guntas in Survey Nos. 181, 212, 234, 292, 488 and 489 of Manchirevula Village of Rajendranagar Mandal in Rangareddy District through allotment order No. Hyd-59, dated 07.03.1969 and sanadNo.RSC(b)/LAND /HYD-59, dated 25.11.1970 in favour of Smt.Radhibhai and to furnish all the papers in current file and note file of the above said allotment order No.HYD-59 dated 07.03.1969 in the file No.SEP3/212/1982 issued by Settlement Commissioner, Bombay, within a period of four weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SUREPALLI NANDA, J

Date: 05.06.2023

Note: L.R. copy to be marked

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