

Right to privacy not an excuse to deny information

The Central Information Commission (CIC) has upheld the right to information over the right to privacy in a case concerning the National Commission for Protection of Child Rights (NCPCR) denying information on cases lying pending with it. It observed that the appellant's request for action taken information on four-year-old complaints before the NCPCR was in the public interest and related to its core function.

In its latest order, the CIC said it was not convincing that the NCPCR refused information, observing that no effort was made to provide the information which could have been voluntarily disclosed under Section 4(1)(b) of the RTI Act. "Except the name of the child, nothing could be denied," the CIC said.

The appellant sought information about the number of complaints received by the NCPCR, a copy of inquiry proceedings in such complaints, date-wise decisions of cases in which the accused were found guilty and what relief was granted. However, the Public Information Officer (PIO) replied on May 17, 2017 that the information sought was not disclosable as per exemption under Section 8(1)(j) of RTI Act.

The CIC said the NCPCR hired the services of a consultant and an adviser, who instead of guiding the PIO properly to disclose the information, misguided him to deny the entire information. "These two experienced seniors did not even provide reasons to justify the denial," it notes. "When appellant was not seeking names and personal information and wanted information about the number of cases left out without any action, or action taken and pending before the Commission for years, the public authority cannot invoke Section 8(1)(j) at all."

The CIC has ordered the NCPCR to provide information regarding cases pending for over two years pertaining to the Bihar circle and the details of disposal of cases where the accused were found guilty, after removing names and personal details of children, within 15 days. It has also directed the PIO to show-cause why maximum penalty should not be imposed upon each of them, for illegal obstruction of information, before October 20, 2017.

Impact of judgment

In a commentary on the impact of the right to privacy judgment passed by the Supreme Court on the RTI Act, Information Commissioner Madabhushi Sridhar noted that the public information officers continue to deny access to information held by them. Published in the September, 2017 issue of the *Economic and Political Weekly*, he notes: "The misuse of Section 8(1)(j) of the RTI Act, 2005, which codified privacy exception, by PIOs is rampant and most times reduced this act into a mockery."

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Madabhushi Sridhar

Information Commissioner

END