

Right to Information and Good Governance

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Lecture 51

Exempted Information-V

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Relationship with foreign State,
economic Interest

- Anuj Dhar v. Ministry of External Affairs, CIC/OK/A/2006/00671 dated 23rd March, 2007
- Ms. Suchitra J.Y., Bangalore v. Bharatiya Nabhikiya Vidyut Nigam Ltd. 2008 CIC
- Delhi Metro Rail Corporation Ltd. v. Sudhir Vohra Delhi HC 2011
- Reserve Bank of India Vs. Jayantilal N. Mistry 2015 SC I



Now, the Delhi Metro Rail Corporation case is in the background of the fact, that unfortunately this metro pillar number 67 collapsed on twelfth July 2009. And, while the pillars collapsed unfortunately, you know it resulted in the death of 6 persons and injury to many others. Now in this background, the gentleman in this case wanted study the structural design of the pillar and wanted to know whether there is any fault in the same and, that is why he wanted a copy of the pillar design.

Now that was the basic background, we had which this information was been solved. So, what did he seek, all structural drawing of both the pipe foundation and the super structure including all steel reinforcement details foundational details, engineering calculations, and soil test. I think this were very prominent in terms of what he had sought for.

Unfortunately, after the pillar collapse and the death of 6 persons and injury to many others the

Delhi Metro Corporation had actually initiated inquiry because they thought that there was some kind of sabotage and there were national, anti-national elements who were involved in this case as well. So, they said that, providing the set information could be very exposing Delhi Metro and making it very vulnerable because some of this information are very sensitive in nature, especially those of bridge and other things and hence it can be misused as well.

And hence they, keeping the security, safety of the state travelling with the public the said information would impede all the set interest of the state. And hence, they sort exemption under Section 8(1)(a). And they said that, to stop any future accident it would be necessary not to disclose the said information, plus they also said that this may hamper the set investigation in the current case by providing the said information.

However, the Delhi High Court did not agree, they said, while they said that yes, certain of this information can come within section 8(1)(a). However, considering the fact that there was an accident the pillar had collapsed, I think there is a larger public interest that out ways the protected interest. And because this was the case of about safety of citizens and travellers, I think the set of information should be provided and disclosed.

And they said that, the plea of the commercial confidence state secret and intellectual property does not arise in this case at all. How, the reason is because the said information should be provided and should be freely circulate. So, that there is an adequate criticism evaluation of the kind of work that may be done in this case. So, dismissing the plea of the government and the Delhi metro that it would harm competitive position of third parties, it is exempted as being intellectual property and it may affect the security of the state.

I think the Delhi High Court clearly came to the conclusion that there was no harm in providing the set information. So, you will notice where the courts are come to the right conclusion of whether the information has to be given or whether it can be withheld as the case may. The final case on the economic interest of the state was the Reserve Bank of India versus Jayantilal Mistry, it is a 2015 Supreme Court judgement.

And very recently the Supreme Court reminded the Reserve Bank of India that it was not complying with the set order and it has ask the Reserve Bank of India to actually go ahead and comply the same. Now, the matter in this case was the Reserve Bank of India is a very important organization, it is the organization that regulates banking in India, it is the banker for the government, it also is involved in printing currency notes, so on and so forth.

I think the kind of function that the Reserve Bank does is of national importance. Now, the Reserve Bank of India as a regulator, organizes annual inspection of the banks and financial institutions in India on regular basis. And once the inspection is done an inspection report is also prepared which probably contains a wide right range of information that has content from the banks and financial institutions. And the copy of the inspection report was sort onto the Right to Information Act.

Now the Reserve Bank of India tried to defend it, and they tried to take it till the Supreme Court of India stating that the inspection report is prepared in a confidential manner and it is held by the Reserve Bank of India in a fiduciary capacity. Banks like the ICIC bank also pleaded in the Supreme Court saying that, such inspection report that is made by the Reserve Bank of India should not be disclosed under the Right to Information Act because it may affect their commercial confidants.

And hence, the Reserve Bank of India was duty bound in fiduciary capacity to hold this information and it is in the economic interest of the country that such inspection reports are not provided for. Now, the questions is, to what extent the public should be allow to get such kind of information? Whether the giving of information in such cases would detriment, be detrimental to the economic interest of the country? Should a common man be empowered to take this inspection report and try and analyze the function in the bank? Should there be any limits on section, you know the sections of the Right to Information Act under which citizens can seek information?

So, I think there were multiple issues that the Supreme Court had to take into account. And I think what the Supreme Court had to do in this case, was to look at the you know the kind of

power that general public should get from exercising their right to information.

And can fiduciary relationship and economic interest be a valid ground for the Reserve Bank of India to deny the said information. I think these were some of the issues that the Supreme Court took into consideration in this very important case called, the Reserve Bank of India versus Jayantilal Mistry. However, the Supreme Court did not accept the arguments of the Reserve Bank of India and directed the Reserve Bank of India to provide the said information.