



The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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TRANSPARENCY AS THE HANDMAID OF INDEPENDENCE:

CASE COMMENTARY ON

Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal, (2020) 5 SCC 481

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INTRODUCTION

Some judgments do more than settle a dispute. They make an institution turn its gaze upon itself. *CPIO, Supreme Court of India v. Subhash Chandra Agarwal*¹, decided by a Constitution Bench on 13 November 2019, is one such judgment. Framed narrowly, it asked what categories of information held by the Supreme Court's Registry fall within the Right to Information Act, 2005. Framed substantively, it asked whether the constitutional value of judicial independence can coexist with the democratic demand for transparency, and categorically answered that it must.

FACTUAL BACKGROUND

The litigation began in 2009 when the respondent, Subhash Chandra Agarwal, filed three RTI applications, one seeking file notings on the collegium's recommendations for elevation of three judges, and another seeking copies of judges' asset declarations made pursuant to the 1997 Resolution of the Supreme Court. The CPIO refused both requests. The Central Information Commission directed disclosure in each instance. While the assets' matter was affirmed successively by a Single Judge and a Full Bench of the Delhi High Court in *Secretary General, Supreme Court of India v. Subhash Chandra Agarwal*, AIR 2010 Del 159, the collegium matter proceeded directly on appeal. A Division Bench of the Supreme Court,

¹ CPIO, Supreme Court of India v. Subhash Chandra Agarwal, (2020) 5 SCC 481

recognising the constitutional magnitude of the questions involved, referred all three appeals to a Constitution Bench, which delivered the present ruling.

ISSUES

The Bench resolved four interlocking questions:

- (i) whether information on judicial appointments held by the Registry is amenable to disclosure;
- (ii) whether such disclosure would compromise judicial independence under Section 8(1)(j) of the RTI Act;
- (iii) whether judges' asset declarations constitute “personal information” exempt under that provision, or whether public interest displaces any such exemption; and,
- (iv) most fundamentally, whether independence and accountability are antagonists or complements.

THE DECISION

A. INDEPENDENCE AND ACCOUNTABILITY RECONCILED

The Court rejected the premise that judicial independence and accountability pull in opposite directions. Independence, it held, is not confined to insulation from legislative or executive interference; it extends to freedom from social, economic, and ideological pressures, and exists to enable the judiciary to fulfil constitutional values rather than to shield wrongdoing. As the Court observed, true judicial independence is “*not a carte blanche to arbitrary behaviour.*”² Accountability, far from threatening this independence, is the mechanism by which the public can verify that the freedom enjoyed by judges is being properly exercised. The Court found support for this reconciliatory approach in earlier authority recognising that institutional independence and individual accountability are compatible constitutional values rather than competing ones.³ The comparative dimension of this reasoning drew on the South African Constitutional Court's treatment of transparency in judicial appointments, which the

² CPIO, Supreme Court of India v. Subhash Chandra Agarwal, (2020) 5 SCC 481

³ C. Ravichandran Iyer v. A.M. Bhattacharjee, (1995) 5 SCC 457 (India).

Bench cited to demonstrate that scrutiny of the appointments process does not, by itself, produce a “chilling effect” on candidates.⁴

B. THE ASSETS CASE: PRIVACY, PROPORTIONALITY, AND FIDUCIARY CLAIMS

On the assets appeal, the Court unanimously affirmed the Delhi High Court and held that asset declarations filed by sitting judges with the Chief Justice do not constitute “personal information” within Section 8(1)(j). In reaching this conclusion, the Bench situated the analysis within the broader architecture of the right to privacy recognised as part of Article 21, applying a proportionality standard to determine when an admittedly private interest must yield to a competing public interest.⁵ The judgment also drew on earlier authority affirming that institutional independence of constitutional courts does not translate into administrative opacity.⁶ and on precedent recognising accountability as an inherent incident of judicial office.⁷

The appellant's principal argument was that asset declarations, made voluntarily and in confidence to the Chief Justice, were protected by a fiduciary relationship and thus exempt under Section 8(1)(e). The Court rejected this characterisation, holding that the Chief Justice receives such declarations in an official, custodial capacity rather than as a fiduciary in the equitable sense. In testing the boundaries of fiduciary obligation, the Bench engaged with the classical English authority distinguishing a true fiduciary relationship from one of mere employment or office-holding, ultimately distinguishing that precedent on the facts before it.⁸ The scholarly literature on the structure of RTI exemptions was also invoked to clarify that confidentiality exemptions must be narrowly construed and cannot be stretched to cover information that is administrative in character merely because it touches a judge's personal finances.⁹ Comparative civil service jurisprudence requiring disclosure of public officials' financial interests was cited to similar effect, reinforcing that the obligation to declare assets is incidental to public office rather than a matter of private confidence.¹⁰

⁴ Helen Suzman Found. v. Judicial Serv. Comm'n, [2018] CCSA 3 (S. Afr.).

⁵ K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1 (India).

⁶ High Court of Bombay v. Shirishkumar Rangrao Patil, (1997) 6 SCC 339 (India).

⁷ Jasbir Singh v. State of Punjab, (2006) 8 SCC 294 (India).

⁸ Newman v. Bourne & Hollingsworth, 31 T.L.R. 209 (1915) (Eng.).

⁹ Philip Coppel, Information Rights (4th ed., Hart Publishing 2014).

¹⁰ Ebert v. State of California, 33 Cal. 2d 502 (1949).

Justice D.Y. Chandrachud's concurrence distilled this reasoning into a four-step proportionality framework for adjudicating any Section 8(1)(j) claim: first, whether the information is “personal information” at all; second, whether it nonetheless relates to a public activity or interest; third, whether disclosure would cause an unwarranted invasion of privacy; and fourth, whether the public interest in disclosure outweighs any harm to privacy, with disclosure restricted no further than necessary to satisfy that public interest. This framework has since become the operative test for exemption claims under the RTI Act.

C. THE COLLEGIUM CASE: A CALIBRATED REMAND

On the collegium appointments matter, the Court declined to mandate blanket disclosure. Because the records also implicated the personal information of the judges under consideration, who had not been heard, the Court held that the third-party procedure under Section 11(1) of the RTI Act required notice to, and an opportunity for, those judges before any disclosure could occur. The matter was accordingly remitted to the CPIO. The Court was careful, however, to foreclose any future blanket refusal: confidentiality concerns, data protection, candidates' reputational interests, and the asserted “chilling effect” on future candidates were each held incapable of constituting, by themselves, grounds for non-disclosure, and were instead required to be weighed against the public interest in the integrity of judicial appointments.

CRITICAL ANALYSIS

The judgment's principal achievement is doctrinal honesty: an institution that interprets and enforces the RTI Act for the rest of the State could not credibly claim exemption from its own logic. By accepting that it is a “public authority,” the Court extended the rule of law inward, repudiating the suggestion that constitutional courts occupy a zone beyond accountability.

Equally significant is the demolition of the independence-versus-transparency dichotomy. The Court located judicial independence in substantive constitutional guarantees — security of tenure, the impeachment process, and post-retirement restrictions — rather than in administrative secrecy, thereby separating the inviolable core of adjudicative independence from the contestable periphery of administrative opacity.

The treatment of the assets case is less persuasive in one respect: the Court's rejection of fiduciary characterisation, while doctrinally sound, somewhat understates the genuine

confidentiality expectations that may have attached to disclosures made under the 1997 Resolution before RTI-era scrutiny existed. Nonetheless, the proportionality framework supplied by Justice Chandrachud is the judgment's most durable contribution, converting Section 8(1)(j) from a vague catch-all into a structured, four-stage inquiry that lower authorities and courts can apply with consistency.

The remand on collegium records, by contrast, leaves unfinished business. While procedurally fair to the affected judges, it defers the central transparency question and creates room for protracted institutional self-protection should future CPIOs interpret the remand narrowly. The Court's insistence that none of the four grounds raised against disclosure can operate as a *per se* bar is a meaningful constraint, but only future practice will reveal whether it is honoured in substance.

CONCLUSION

This case will be remembered for the dissolution of the false binary between judicial independence and accountability and the introduction of a structured proportionality test for privacy exemptions under the RTI Act. The affirmation that information about judicial appointments and the financial propriety of constitutional functionaries is a matter of legitimate public concern rather than institutional privilege is landmark in the sense that judiciary has always maintained its culture of being elite in the name of being independent. Whether the collegium remand ultimately advances genuine transparency or becomes an avenue for continued opacity remains an open question, but the analytical framework the judgment supplies equips future litigants and information commissioners to insist on the openness the Constitution itself demands.