

# Applicant's privacy and RTI act

December 15, 2020

Informed citizenry and transparency of information are vital for the functioning of democracy. When it comes to Right to information, the big question will be whether a person's address is public or private information. The answer to this will have significant implications for transparency in governance and the fight against corruption in India. The recent Bombay High Court ruling is a testimony for that.

**In news:** The Bombay High Court reprimanded the Ministry of Information & Broadcasting (MIB) for putting up in the public domain RTI application copy which contains the petitioner's address and contact details.

**Placing it in syllabus:** Governance

**Dimensions**

1. Ruling of the Bombay High Court
2. Importance of the judgement
3. Criticisms

## Content:

### Ruling of the Bombay High Court:

Recently, in a case involving activist Saket Gokhale, the Bombay High Court ordered the MIB to remove Mr. Gokhale's contact details from its website. His address was revealed to the general public when the RTI application filed by him was displayed on the Ministry's website. He received threat calls and even protests in front of his house as he had sought details of the congregation in Ayodhya despite the pandemic.

- The Bombay High Court ordered the secretary of MIB that as per **section 6(2) of the RTI Act of 2005**, it would be

the duty of the authority to hide details like address from their website.

- It asked the secretary of MIB to ensure that a suitable enquiry is held in the issues highlighted regarding the uploading of the personal details.
- The deadline for enquiry is by the first week of February 2021.
- It took the reference of an order of Kolkata High court given in 2013.

### **2013 judgment of Avishek vs. Union of India by the Kolkata High Court:**

- The court had passed the order directing the ministry of personnel to circulate the copy of the order to all concerned so the authority can take measures to hide personal details of the activists to avoid any harassment by the persons having vested interests.
- The authority may not insist upon the detailed address particularly when the applicant would provide a particular post box number that would automatically conceal their identity to the public at large.
- The personal details can be insisted upon only when the authority would find any difficulty with the post box number.
- However, in such case, it would be the solemn duty of the authority to hide such information and particularly from their website so that people at large would not know of the details.

### **Importance of the recent judgement:**

- The HC order observed that the **issue travels beyond the individual breach of the privacy of the applicant** and potential likelihood of a risk.
- If personal details of other applicants are put up in the public domain, some of those who want to seek information for the larger good may be deterred for the

fear of being targeted and this could defeat the object of the RTI Act. Hence the recent judgement **secures the petitioners from unnecessary fear of getting targeted.**

### Criticisms:

- Personal details are available on many websites and it is the mandate of **Section 4 of the RTI Act to display most information proactively.**
- The Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) websites and the Jansoochana portals of many states give the names and addresses of ration card holders, pensioners and many other persons.
- The voter's lists carry the names and addresses of all voters.
- Hence it would be a near-impossible task for the government departments to remove the names and addresses from all applicants and responses.
- There is no discussion in either the 2013 or the 2020 High court judgments as to how the addresses, and phone numbers become exempt information.

### *What does the RTI Act say about the applicant and manner of application?*

- The RTI Act says that all information held by the government must be shared with citizens unless it is exempted under **Section 8 or 9 of the Act.**
- **Section 5 (2)** states that the public information officer (PIO) should go out of his way to help the citizen to file RTI if the latter is unable to do so. In that case, he should be aware that minimum personal details should be provided of the applicant.
- As per the provisions of **Section 6(2)**, bare minimum personal information about an RTI applicant is to be sought by a public authority only for the purpose of contacting him.

- **Section 8 (1) (g)** mentions that no information should be furnished, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes.

**Mould your thought:**

1. Is a RTI applicant's address a Matter of Privacy? Discuss.

**Approach to the answer:**

- Write why the matter in news
- Write about recent Bombay High court judgement with brief reference to 2013 judgement
- Write the importance of judgement
- Note down the drawbacks
- Conclusion