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RBI DIRECTED TO DISCLOSE INFORMATION UNDER RIGHT TO INFORMATION ACT

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The issue of whether the Reserve Bank of India ("RBI") is bound to disclose information sought under the Right to Information Act, 2005 ("RTI Act") was recently examined by the Hon'ble Supreme Court in the case *Reserve Bank of India and Ors. v. Jayantilal N. Mistry and Ors.*, decided on December 16, 2015. The case in question dealt with certain orders of Central Information Commissioner ("CIC") requiring RBI to furnish information sought by the applications filed under the RTI Act seeking certain information of other banks in public interest.

RBI's Contentions: RBI denied disclosure of information received by it through other banks such as unpaid loans of industrialists, top defaulters of the public sector banks, fines imposed on other banks by RBI, etc., on the ground of being exempted under Section 8(1)(a), (d) and (e) of the RTI Act¹. The denial was primarily made on the basis of economic interest, commercial confidence, and fiduciary relationship of RBI with other banks. RBI further contended that RTI Act was a general law and it could not override the confidentiality provisions under the specific legislations such as Banking Regulation Act, 1949, the Reserve Bank of India Act, 1934 and the Credit Information Companies (Regulation) Act, 2005.

Court's Decision: The Apex Court rejected the contentions raised by the RBI and upheld the orders of the CIC. It observed that RBI does not place itself in fiduciary relationship with other banks as information received from other financial institutions is not received under pretext of trust or confidence but under the ambit of RBI's statutory duty to oversee the functioning of the banks and the country's banking sector. RBI has a statutory duty to uphold the interest of the public at large, the depositors, the economy and the banking sector of the country, and not the

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interest of individual banks. Therefore, RBI is duty bound to comply with the provisions of the RTI Act and disclose the information sought in the instant case.

RBI's contention that disclosure of information would prejudicially affect the economic interest of the State and may lead to systematic crisis for financial stability if information sought is sensitive, was also rejected by the Court as being baseless and it was held that the disclosure in question would serve public interest.

The Court further observed that the right to information regarding the functioning of public institutions is a fundamental right enshrined in Article 19 of the Constitution, and the RTI Act being a later legislation aimed to bring transparency, overrides all earlier laws and practices except in case of specific exemptions enumerated under Section 8 of the RTI Act.

Publicized as a landmark win, this judgement has been welcomed by the RTI activists. The implications of this judgement may indeed be far reaching, paving the way for greater accountability and transparency in the financial market.

Endnote

^[1]Section 8 of the RTI Act mentions "*exemption from disclosure of information.*—

(1) *Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—*

(a) *information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;...*

(d) *information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;*

(e) *information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information.*

Feedback

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