

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

D.B. PIL Petition No.14730/2014

Suo motu

vs.

State of Rajasthan

Date of Order : 08.09.2015

HON'BLE THE ACTING CHIEF JUSTICE MR.AJIT SINGH
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Mr. N.M.Lodha, Advocate General assisted by
Mr. Vishal Sharma, for the State.

Anupinder Singh Grewal, J.

1. This petition has been treated as suo motu petition in public interest after the Single Bench of this Court while hearing S.B.Civil Writ Petition No.8381/2014 was required to refer to the Rajasthan Evaluation Service Rules, 1979 which were not available in the library of the Court. The Single Bench was informed by the counsel for the parties that copy of these Rules is neither available in the open market nor has been uploaded on the website of the concerned department. The Court had also recorded that in other cases as well, the statutory Rules framed by the Governor of Rajasthan for other departments of the Government and public authorities were also neither available in the open market nor on the website of the concerned departments or public authorities. The Court had also been informed that some of these Rules were not even published in official gazette or any other publication making it impossible for the public to get copy of such Rules.

2. While referring to the reply filed on behalf of the State of Rajasthan, learned Advocate General has submitted that various Rules are available on the website of the concerned departments and list of 30 such Rules has been annexed as Annexure-A. He has also drawn our attention to Annexure-B wherein Rules relating to Department of Personnel after 1996 have been uploaded on the website of the Department of Personnel. It is further submitted that amendments made after 1999 in all the Rules have also been uploaded on the concerned website and list of such amendments have been annexed as Annexure-C. Lastly, it is submitted by the learned Advocate General that he is making all efforts to have the Rules on websites for convenience of the public at large and whenever any Rule is enacted and published in official gazette (Rajasthan Rajpatra), the same shall be made available for sale by the Government Press.

3. We have heard learned Advocate General for the State of Rajasthan.

4. It is noteworthy that as per Section 4(1)(b) of the Right to Information Act, 2005 (hereinafter referred to as 'the said Act'), every public authority is obliged to publish the Rules, Regulations, Instructions, Manuals and Records held by it, or under its control or used by its employees for discharging its functions. Section 4(2) of the said Act has also made it incumbent on the part of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo-motu to the

public at regular intervals through various means of communications, including internet, so that the public have the minimum resort to the use of the Act to obtain information. It is also provided in sub-section (3) of Section 4 that for the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.

5. Therefore, it is obligatory on the part of the State Government and the other public authorities like Municipal Corporation, Panchayat Raj Institutions and other statutory bodies to disseminate the information through various means of communications including internet.

6. It is evident from the perusal of the reply and submissions of the learned Advocate General that all the Rules framed by the State of Rajasthan under Article 309 of Constitution of India have not been uploaded on the website of the Government and public authorities. If the rules, regulations and instructions issued by Government and public authorities are not made available to the public at large, it would defeat the purpose of the enactment of the Right to Information Act which is meant to bring transparency in the functioning of the Government and public authorities.

7. We, therefore, direct the Chief Secretary, Government of Rajasthan to ensure that the Rules framed by the Governor of Rajasthan in exercise of power under proviso to Article 309 of the Constitution of India for various departments of State Government and other public authorities should be uploaded

on the website of the State of Rajasthan or the concerned department within a period of four months. As and when any amendment is carried out in the Rules, the same shall also be incorporated in the Rules made available on the website so that a person requiring a copy of the Rules can have the updated version. The Rules/Regulations/Instructions issued by various departments and public authorities shall also be uploaded on the website within the aforesaid period. The Chief Secretary of the State of Rajasthan shall also call a meeting of the Heads of the Boards/Corporations to direct them to do the same exercise namely, uploading of Rules/Regulations/Instructions issued by them on their concerned websites within four months.

8. We further direct that all these Rules/Instructions/Regulations shall also be published in the Government gazette and be made available for sale at nominal rate to public at all the District headquarters within a period of four months.

The petition is disposed of with these directions. However, compliance report shall be submitted by the Chief Secretary on affidavit before the Registrar General of this High Court.

(ANUPINDER SINGH GREWAL),J.

(AJIT SINGH),ACTING C.J.

Om
Certificate:All corrections made in the judgment/order have been
incorporated in the judgment/order being e-mailed.

Om Prakash PA

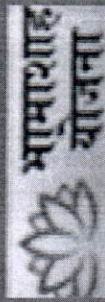


Official Website of Udaipur

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भारत शाह
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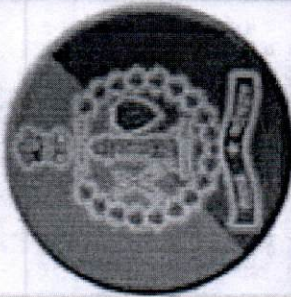


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अनुसार करना है। कृपया ध्यान रखें कि सूचना का अधिकार अधिनियम 2005 की धारा 8(3) में यह प्रावधान किया गया है कि उप धारा (1) के खण्ड (क), खण्ड (ग) और खण्ड (घ) के प्रावधानों के अधीन रहते हुए किसी ऐसी घटना, वृत्तान्त या विषय से सम्बन्धित कोई सूचना, जो उस तारीख से, जिसको धारा 6 के अधीन कोई अनुरोध किया जाता है, 20 वर्ष पूर्व घटित हुई हो या हुआ था, उस धारा के अधीन अनुरोध करने वाले किसी व्यक्ति को उपलब्ध करायी जायेगी। इस प्रावधान के अनुसार सभी रिकॉर्ड्स 20 वर्ष की अवधि से अधिक समय के लिये सुरक्षित नहीं रखे जाने चाहिये। इस संबंध में कार्मिक, लोक शिकायत एवं पेंशन मंत्रालय, भारत सरकार के कार्यालय ज्ञापन संख्या 1/12/2007-आई.आर. दिनांक 31 अक्टूबर 2007 का हवाला देना प्रासंगिक है। सूचना का अधिकार रिकार्ड प्रतिसंधारण अनुसूची निर्धारित नहीं करता। रिकॉर्ड्स का संधारण सम्बद्ध लोक प्राधिकरण में लागू रिकॉर्ड प्रतिसंधारण अनुसूची के अनुसार किया जाना अपेक्षित है। किसी फाइल या रिकार्ड को नष्ट करने से उस फाइल या रिकार्ड में समाहित सभी सूचनाएं नष्ट नहीं हो जाती। यह संभव है कि फाइल में सृजित सूचना, फाइल के नष्ट किये जाने के बाद भी कार्यालय ज्ञापन या पत्र अथवा किसी अन्य रूप में उपलब्ध रहे। अधिनियम के उक्त प्रावधान के अनुसार इस प्रकार उपलब्ध जानकारी को 20 वर्ष के व्यपगत हो जाने के बाद प्रस्तुत करना अपेक्षित है भले ही ऐसी सूचना को धारा 8(1) के अर्न्तगत प्रकट करने की छूट दी गयी हो। सीधा सा मतलब यह है कि ऐसी सूचना जिसे अधिनियम की धारा 8(1) के तहत प्रकट करने से छूट प्राप्त है, सूचना से संबंधित घटना के घटित होने के 20 वर्ष बाद प्रकट करनी होगी। तथापि निम्नलिखित प्रकार की सूचना के प्रकटीकरण पर प्रतिबन्ध बना रहेगा और 20 वर्ष के व्यपगत होने के बाद भी ऐसी सूचना को किसी नागरिक को देने की कोई बाध्यता नहीं होगी-

- सूचना जिसके प्रकटन से भारत की प्रभुता और अखण्डता, राज्य की सुरक्षा, रणनीति, वैज्ञानिक या आर्थिक हित

विदेश से संबंध पर प्रतिकूल प्रभाव पड़ता अपराध को करने का उद्दीपन होता हो,

- सूचना जिसके प्रकटन से संसद या किसी राज्य के विधानमण्डल के विशेषाधिकार का भंग कारित होगा, अथवा
- अधिनियम की धारा 8(1) के खण्ड (i) के परन्तुक में दी गयी शर्तों के अधीन मंत्रिपरिषद्, सचिवों और अन्य अधिकारियों के विचार-विमर्श के अभिलेख सहित मंत्रिमण्डलीय कागजात।

अतः आपको पुनः स्मरण कराया जाता है कि सूचना का अधिकार अधिनियम 2005 की धारा 8(3) के अनुसार लोक प्राधिकरणों से यह अपेक्षा नहीं की जाती कि वे अभिलेखों को अनन्त काल तक सुरक्षित रखें। लोक प्राधिकरण को अपने प्राधिकरण में लागू अभिलेख प्रतिसंधारण अनुसूची के अनुसार ही अभिलेखों को संरक्षित रखना चाहिये। राज्य सरकार द्वारा निर्धारित विभागों की कार्यालय क्रियाविधि पुस्तिका के नियम 105(क) में ऐसी सूची उल्लेखित है जिसके अनुसार कार्यवाही की जानी चाहिये।

- ☒ 20 वर्ष से पूर्व का रिकार्ड अधिनियम में निहित प्रावधानों के अनुसार ही नष्ट करना चाहिये ताकि सूचना प्राप्ति हेतु प्राप्त प्रार्थना-पत्र का जवाब तदनुसार प्रस्तुत किया जा सके। इस निमित्त कार्यालय क्रियाविधि में अंकित रिकार्ड प्रतिसंधारण अनुसूची का पालन करना चाहिये।

- ☒ लोक सूचना अधिकारी को अपने विभाग से संबंधित समस्त प्रकोष्ठों के रिकॉर्ड समय एवं विषयानुसार सुव्यवस्थित अथवा कंप्यूटरीकृत करवाकर रखने चाहिये।

- ☒ सूचना प्राप्ति हेतु प्राप्त प्रार्थना-पत्र का निस्तारण/सूचना प्रदान करने की अवधि निम्नानुसार रखी गयी है:-

30 दिवस

सामान्यतया