

ITEM NO.303

COURT NO.6

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO. 10044/2010

CEN.PUB.INFORMATION OFFICER, SCI & ANR.

APPELLANT(S)

VERSUS

SUBHASH CHANDRA AGARWAL

RESPONDENT(S)

WITH

C.A. NO. 2683/2010

(WITH OFFICE REPORT)

C.A. NO. 10045/2010

(WITH INTERIM RELIEF AND OFFICE REPORT)

Date : 17/08/2016 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE PRAFULLA C. PANT

HON'BLE MR. JUSTICE A.M. KHANWILKAR

For Appellant(s)

Mr. P.S. Narsimha, ASG
Ms. Arunima Dwivedi, Adv.
Mr. Arijit Prasad, Adv.
Mr. Ajay Sharma, Adv.
Ms. Vidya V. Pawar, Adv.
Mr. G.S. Makker, Adv.
Mr. B. Krishna Prasad, AOR

For Respondent(s)

Mr. Prashant Bhushan, AOR
Mr. Pranav Sachdeva, Adv.
Ms. Neha Rathi, Adv.

Mr. Kshatrshal Raj, Adv.
Mr. Abhishek Vinod Deshmukh, Adv.
for M/s. Parekh & Co., AOR

Ms. Pratibha Jain, AOR

Ms. Rachana Srivastava, AOR
Ms. Monika, Adv.
Ms. Sukrit R. Kapoor, Adv.

Mr. Sunil Fernandes, AOR

Mr. Sunil Kumar Verma, AOR

Mr. Krishnanand Pandeya, AOR
Mr. Amrendra Kr. Choubey, Adv.

Mr. V. N. Raghupathy, AOR

Mr. Bharat Sangal, AOR
Ms. Vernika Tomar, Adv.
Ms. Vidushi Garg, Adv.

Mr. Ravi Prakash Mehrotra, AOR

Mr. Aniruddha P. Mayee, AOR
Mr. A. Selvin Raja, Adv.

Mr. Sibbo Sankar Mishra, AOR
Mr. Umakant Mishra, Adv.

Mr. Vijay Hansaria, Sr. Adv.
Mr. P. I. Jose, AOR
Mr. Nitin Kumar Singh, Adv.

Mr. Aruneshwar Gupta, AOR

Mr. M. P. Vinod, AOR

Ms. C. K. Sucharita, AOR

Ms. Hemantika Wahi, AOR
Ms. Jesal Wahi, Adv.
Ms. Mamta Singh, Adv.

Mr. R. Nedumaran, AOR

Mr. Kuldip Singh, AOR

Mr. A. Mariarputham, Adv. Gen., Sikkim
Ms. Aruna Mathur, Adv.
Mr. Yusuf Khan, Adv.
Mr. Avneesh Arputham, Adv.
Ms. Anuradha Arputham, Adv.
for M/s Arputham Aruna & Co., AOR

Mr. Aman Sinha, Sr. Adv.

Mr. Sanjai Kumar Pathak, AOR

Mr. Naresh K. Sharma, AOR

Mr. Satish Kumar, AOR

Ms. Sneha Kalita, AOR

Mr. Satyam Sakia, Adv.

Mr. Janaranjan Das, AOR

Mr. Yashvardhan, Adv.

Mr. Jagjit Singh Chhabra, AOR

Mr. Suryanaryana Singh, Sr. AAG

Ms. Pragati Neekhra, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The matters are referred to Constitution Bench for
its esteemed opinion in terms of the signed order.

[VINOD LAKHINA]
COURT MASTER

[ASHA SONI]
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 10044/2010

CENTRAL PUBLIC INFORMATION OFFICER,
SCI & ANR. . . . APPELLANTS

VERSUS

SUBHASH CHANDRA AGARWAL RESPONDENT

WITH

CIVIL APPEAL NO. 2683/2010

CIVIL APPEAL NO. 10045/2010

ORDER

1. To persuade the Court that the matters should be heard by the present three judge Bench notwithstanding the order dated 26th November, 2010 passed by a two-judge Bench of this Court, Shri Prashant Bhushan, learned counsel for the respondent has placed reliance on the seven judge Bench decision of this Court in S.P. Gupta Versus Union of India & anr. [(1981)

Supp. SCC 87], particularly paragraphs 83, 84 and 85 thereof.

2. We find that a similar reliance was placed by Shri Bhushan before the two-judge Bench that had rendered the order dated 26th November, 2010. The said fact is recorded in paragraph 9 of the aforesaid order. Thereafter in paragraph 11, the two-judge Bench observed as follows:

11. Whether the said decision would be applicable when such information is sought under the provisions of the Right to information Act is an important question that is required to be gone into.

3. In paragraph 12 of its order the two judge Bench of this Court has further observed that it is of the "considered opinion that a substantial question of law as to the interpretation of the Constitution is involved in the present

case which is required to be heard by a Constitution Bench." The questions of law formulated by the two judge Bench are set out in paragraph 15 of the aforesaid order which are as follows:

1. Whether the concept of independence of judiciary requires and demands the prohibition of furnishing of the information sought? Whether the information sought for amounts to interference in the functioning of the judiciary?

2. Whether the information sought for cannot be furnished to avoid any erosion in the credibility of the decisions and to ensure a free and frank expression of honest opinion by all the constitutional functionaries, which is essential for effective consultation and for taking the right decision?

3. Whether the information sought for is exempt under Section 8(i)(j) of the Right to Information Act?"

4. Having heard Shri P.S. Narsimha, learned Additional Solicitor General appearing for the appellants and Shri Prashant Bhushan, learned counsel for the respondent and having considered the paragraphs referred to above in the decision in S.P. Gupta (supra) we are in respectful agreement with the views expressed by the two judge Bench of this Court in its order dated 26th November, 2010. Accordingly, we refer the questions, extracted above, to the Constitution Bench for its esteemed opinion. As Shri Bhushan has expressed some anxiety on account of the long pendency of the matters we leave it open for Shri Bhushan to make a mention of the same either before Hon'ble the Chief Justice of India or before the Constitution Bench as and when constituted for an appropriate order in this regard.

5. Office to place the papers before
the Hon'ble the Chief Justice of India.

.....,J.
(RANJAN GOGOI)

.....,J.
(PRAFULLA C. PANT)

.....,J.
(A.M. KHANWILKAR)

NEW DELHI
AUGUST 17, 2016