Public as Banking Regulators

What is the issue?

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- The latest PNB fraud case has highlighted the deficiencies in procedures and regulatory controls in the banking sector.
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- It calls for assessing the space for public in playing a regulatory role.
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How does RTI help?

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- Under the Right to Information (RTI) Act, applications were filed in 2011-12 before for RBI and NABARD.
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- The information sought comprised copies of -
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i. inspection reports on banks
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ii. details of action taken against banks in breach of the relevant laws and regulations
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iii. advisory notes issued by the RBI to banks and non-performing asset accounts
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- However, RBI and NABARD denied information regarding these.
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- The denial of information was on the ground that disclosure would prejudicially affect the economic interests of the state.

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- The reasoning was that this would cause loss of public faith in some banks.
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- Also, the information had been received from the banks concerned in a fiduciary capacity (trustee).
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- Hence, it could not be disclosed to third parties.
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- Following this, the Central Information Commission (CIC) considered appeals from RTI applicants.
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- Overruling, the CIC ordered the disclosure of a good deal of information.
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- However, its decisions were stayed by High Courts.
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What was the SC ruling?

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- The decisions by the CIC were considered and upheld by the Supreme Court.
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- The court ruled that regulatory bodies were not in a fiduciary relationship with the banks that had provided the information.
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- The Supreme Court also rejected the argument that information disclosure would hurt the economic interest of the country.
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- The judgment has also guided subsequent decisions of the CIC in such matters.
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What were the CIC's directions?

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- The CIC has also directed disclosure of following information in respect of wilful defaulters and absconders -
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i. amount disbursed
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ii. grounds underlying the decision
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iii. rate of interest
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iv. collaterals obtained
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v. the outstanding amount
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vi. steps taken for recovery, etc
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- This direction overrode the ground of the fiduciary relationship of banks with their customers.
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- The decisions are based on Section 8(2) of the RTI Act.
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- Accordingly, notwithstanding the exemptions from disclosure, certain information can be disclosed.
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- This is provided that the public interest in disclosure outweighs the harm to the protected interest for denial of information.
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Why is public disclosure significant?

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- Institutions that take the responsibility of managing **public funds** are answerable to the people.
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- The argument that such information is the exclusive preserve of those in the government and regulatory bodies is baseless.
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- **Confidence of people** in financial institutions should not be sustained by hiding information concerning their wrongdoings.
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- On the contrary, people ought to have all the information, good or bad, to make **informed decisions** about dealing with them.
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- Above all, well-informed people can discharge the **role of a watchdog.**
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- This can be far more effective than all the regulatory bodies put together. This is because opacity deprives them of that role.
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What should de done?

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- **Disclosure** - Any fraud in a financial institution or a case of wilful default is a matter of public interest.
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- Complete transparency concerning the amount involved should be made public.
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- Also, the factors and persons responsible for the loss should be made known to the public.
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- **Laws** - The RBI also restrains from disclosing the names of wilful defaulters to the public.
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- It is argued that doing so would affect the third parties.
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- Certain amount of confidentiality about the information was also claimed under provisions of the RBI Act.
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- Thus, the law on these issues should be clarified further as a result of future judicial pronouncements.
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- Laws that prevent disclosure of even essential information should suitably be modified, to have transparency in banking functions.
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Source: The Hindu

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