RTI and Judiciary

Why in news?

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Delhi High Court recently held that RTI Act could not be resorted to in case the information sought for is related to judicial function of the Supreme Court.

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What is the case?

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- The court’s order came on a plea by the Supreme Court of India, through its Registrar.
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- It had challenged an earlier order of the Central Information Commission (CIC).
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- The CIC order had directed the apex court to answer the queries of a litigant as to why his SLP (Special Leave Petition) was dismissed.
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- The SLP was regarding the termination of his services as a teacher, the challenge for which in the Central Administrative Tribunal (CAT) was dismissed.
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- His petition in the high court and appeal in the apex court also failed, and the review petitions were also dismissed.
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- Thereafter, he sought information under the RTI as to why his SLP was dismissed.
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- And contended that the same had been decided against the principles of natural justice.
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What is the High Court's rationale?

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- Right To Information (RTI) Act would not override the *Supreme Court Rules* (SCR), when it comes to dissemination of information.
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- Court emphasized that the judicial functioning of the supreme court of India is separate/ independent from its administrative functioning.
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- Consequently, for administrative functioning of the Supreme Court, information can be provided under the RTI Act.
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- And for judicial functioning of the Supreme Court, the Supreme Court Rules is the mechanism.
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- It includes right of inspection, search of copies and would be applicable for access to the documents filed on the judicial side.
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- The court denied the arguments that there was an inherent inconsistency between SCR and RTI Act.
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- The high court further said that a Judge speaks only through the judgments or orders passed.
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- And cannot be expected to give reasons other than those that have been enumerated in the judgment or order.
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- If any party feels aggrieved by the judgment passed, the remedy available is to challenge the same by a legally permissible mode.
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- It stressed that the legislature could not make law to deprive the courts of their legitimate judicial functions conferred under the procedure established by law.
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What are the defects with SCR?

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- The Supreme Court Rules are not as effective a mechanism to access information as the RTI.
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- Unlike the RTI Act, the SCR do not provide for:
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i. a time frame for furnishing information
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ii. an appeal mechanism
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iii. penalties for delays or wrongful refusal of information
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- The Rules also make disclosures to citizens dependent upon "*good cause* shown".
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- In sum, the Rules allowed the Registry to provide information at its unquestionable discretion, violating the text and spirit of the RTI.
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- It is thus argued that the Supreme Court Rules are inconsistent with the RTI Act.
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What are the implications of the ruling?

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- The whole issue is that the Supreme Court Registry wants to provide information at its absolute discretion.
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- The high court ruling signifies the continuing trend of disregard for the RTI by the judiciary.
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- The judgment thus seems to be strengthening a culture of opacity in the higher judiciary.
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Quick Fact

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Supreme Court Rules

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- Supreme Court Rules (SCR), 1966 have been framed under Article 145 of the Constitution of India.
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- They provide for regulating the practice and procedure of the Court, and the rules have the effect of law.
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- SCR provide for a mechanism for inspection and search of pleadings on payment of prescribed fees.
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- The rules were re-issued with minor changes in 2014.
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Good cause

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- Good cause is defined in the legal sense as a sufficient reason for a judge to make a ruling.
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- It denotes adequate or substantial grounds or reason to take a certain action, or to fail to take an action prescribed by law.
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- The term “good cause,” however, is a broad one, and what constitutes a good cause is usually determined on a case-by-case basis and is thus relative.
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Source: The Hindu, Live Law

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