RTI and Right to Privacy - Judiciary Case

Why in news?

A Constitution Bench of the Supreme Court has concluded hearing a crucial appeal under the Right to Information Act (RTI), 2005.

What were the three RTI cases on question?

- **Appointment** - An RTI applicant filed a request to the Supreme Court in 2009.
- It sought a copy of the complete correspondence exchanged between the CJI and other concerned constitutional authorities relating to appointment of some judges.
- It related to appointment of Justices H.L. Dattu, A.K. Ganguly and R.M. Lodha as Supreme Court judges, suppressing the seniority of Justices A.P. Shah, A.K. Patnaik and V.K. Gupta.
- The information sought was denied.
- But the *Central Information Commission* (CIC) directed that the information be furnished.
- The information officer of the apex court appealed directly to the Supreme Court against the order.
- **Assets declaration** - The Supreme Court's 1997 resolution requires judges to declare to the CJI the assets held by them - own name, spouse's name and in any person dependent on them.
- An RTI application in 2007 asked if any declaration of assets was ever filed by the Supreme Court or high courts judges to the respective CJIs in compliance with the above.
- The Public Information Officer (PIO) of the Supreme Court invoked Section 8(1)(j) of the RTI Act to deny this information.
- But the CIC ordered that the information sought by the applicant be provided.
- The CIC order was challenged by the Supreme Court in the Delhi high court. The Delhi high court upheld the CIC order.
- The judgment also held that the information of judges' assets does not qualify as "personal information" exempt under Section 8(1)(j).
- So information on judges' assets could be requested by the public through an RTI application.

- It was widely welcomed as a right step in the direction to enhance transparency in judiciary.
- But the Supreme Court challenged the single judge's judgment of the Delhi High Court by filing appeal before the Division Bench.

- **Influence on judgement** - Quoting a media report, an RTI application was filed with the Supreme Court.
- It sought copies of correspondence between the then CJI and a Madras high court judge.
- It was regarding the attempt of a union minister to influence judicial decisions of the Madras high court.
- It also sought information on the name of the concerned minister.
- The public information officer (PIO) denied the information sought but the CIC, in its order, overturned the decision.
- The PIO of the Supreme Court directly moved a petition before the SC challenging the CIC order.

What is the present case mainly about?

- While hearing the case related to the RTI on appointments, the Supreme Court clubbed the other two cases and moved it to a constitutional bench.

- A key question pertains to whether judges are required to publicly disclose their assets under the RTI Act in light of Section 8(1)(j).
- The provisions of the Section prohibit the sharing of personal information that has no nexus to public activity.
- It also prohibits that which amounts to an unwarranted invasion of privacy unless the larger public interest justifies such a disclosure.

What is the complexity involved?

- In landmark judgments in PUCL (2003) and Lok Prahari v. Union of India (2018), smaller benches of the court set aside the privacy claims of the political class.
- It forced them to publicly disclose not just their assets but also the sources of their income.
- So any attempt now to assert the fundamental right to privacy as the basis for not disclosing information would overrule the above.
- Also, the final ruling of the Constitution Bench will impact the contentious Section 44 of the Lokpal Act, 2013.
- This requires all public servants (includes judges) to disclose their assets.
- But it is silent on whether the disclosure should be to the competent authority or the general public.

- Most likely, the Constitution Bench will now be viewing the privacy right enshrined in Section 8(1)(j) of the RTI Act through the lens of the recent Aadhaar judgment.
- In all, the final judgment on the judiciary's right to privacy could have a bearing on other categories of people as well.

Source: The Wire, The Hindu

Quick Fact

Central Information Commission

- The Central Information Commission was constituted under the Right to Information Act, 2005.
- It shall consist of the Chief Information Commissioner (CIC) and such number of Central Information Commissioners not exceeding 10 as may be deemed necessary.
- The Commission has certain powers and functions which broadly relate to -
    i. adjudication in second appeal for giving information
    ii. direction for record keeping
    iii. suo motu disclosures
    iv. receiving and enquiring into a complaint on inability to file RTI, etc
    v. imposition of penalties
    vi. monitoring and reporting including preparation of an Annual Report
- The jurisdiction of the Commission extends over all Central Public Authorities.

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