

CASE COMMENT: A.S. RAWAT V. DAWA TASHI – NON-CITIZENS AND THE RIGHT TO INFORMATION IN INDIA

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I. Introduction

The Delhi High Court judgment in the case A.S. Rawat v. Dawa Tashi deals with an important question in Indian administrative law: Are non-citizens entitled to access information under the provisions of the Right to Information Act, 2005 (hereinafter the "RTI Act")? This case comment attempts to trace the judicial journey on the issue and contemplate the dimensions that this verdict would have in India on transparency, constitutional law, and administrative functioning.

II. Brief Background of the Case

A. Parties

Petitioner: A.S. Rawat, Public Information Officer, Central Tibetan Schools Administration (CTSA)

Respondent: Dawa Tashi, being a citizen of Tibet and teacher in one of the CTSA-supported schools at Darjeeling

B. Facts

In 2014, the Tibetan national teacher Dawa Tashi filed an application with the RTI seeking information concerning his employment confirmation, children's educational allowance, and leave travel concession from the CTSA. The PIO, A.S. Rawat, rejected the application due to Section 3 of the RTI Act, which provides for "citizens" of India for seeking information. Tashi made an appeal to the Central Information Commission (CIC), which ruled in his favor and imposed a pay-in penalty of ₹ 25,000 against Rawat for mala fide denial of information. This was challenged by Rawat before the Delhi High Court on two counts.

III. Two Legal Issues Arise

1. Whether a non-citizen can seek information under the RTI Act?
2. Whether imposing a penalty on the PIO was justified?

IV. Court's Analysis and Reasoning:

I. Access to RTI for Non-Citizens

IV. Analysis and Reasoning of the Court:

I. Access to RTI for Non-Citizens

Mr. Rawat argued that Section 3 of the RTI Act lays down the principle, "all citizens shall have the right to information," therefore any information under the Act is withheld from non-citizens. The High Court rejected this limited view by saying that while Section 3 may guarantee the right to information for the citizens, it does not imply a prohibition whereby a non-citizen cannot seek information. The Court considered other provisions within the RTI Act-dealing with requests for information, namely, Sections 6 and 7-which refer to "person" as opposed to "citizen" and make no mention of applicants needing to prove their citizenship. This reinforces the idea that no strict barrier of citizenship was intended by the Act in its procedures. Analyzing it through a purpose-orienting lens, the Court realized that the very soul of the RTI Act is to secure transparency and accountability in governance; if, therefore, information for consideration were denied to non-citizens on the basis of citizenship alone, it would destroy the very democratic tenets upon which the Act stands.

From the constitutional principle standpoint, the Court relied on Article 21, which speaks of the protection of life and personal liberty to persons within the territorial jurisdiction of India, as opposed to citizens alone. It agreed that access to information could prove quite valuable for people, particularly for non-citizens like refugees or foreign nationals, in the context of securing their rights and interests. The Court was in accordance with Article 14, which guarantees equality before the law and equal protection of law to all persons. Therefore, it would violate those constitutional rights of fair trial and equality if access to information were given only on the grounds of citizenship; this is particularly true when governmental authorities act against the interests of both citizens as well as non-citizens.

With regard to this interpretation of legislation, the Court was satisfied that Parliament clearly did not intend to limit transparency and accountability only to Indian citizens. While on the surface Section 3 of the Act talks of citizens, other sections are silent on such a distinction, and the interchangeable use of "citizens" and "persons" suggests that there was no absolute bar against the non-citizens' right of access to information. The Court referred to India's obligations under international human rights instruments—largely the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights—that advocate access to information for all human beings within the jurisdiction of a state. These international obligations serve to reinforce India's commitment to an open governance system for all those affected by administrative actions.

The Court clarified that non-citizens do not have an unqualified right to receive all categories of information under the RTI Act. Access can be granted when the information sought is directly related to their rights or interests, or when its disclosure promotes the public interest or constitutional values. In the case of Dawa Tashi, the information sought was in connection with the employment confirmation of the applicant

and the educational allowance for his children, as well as the leave travel concession benefits—therefore the issues at stake were directly related to his professional welfare. The Court held that to deny such information was clearly unjustified since it concerned matters directly affecting his legitimate interests as an employee under the Central Tibetan Schools Administration.

II. Penalty on the PIO

The Delhi High Court's ruling in *A.S. Rawat v. Dawa Tashi* was a landmark touching upon the rights of non-citizens in relation to the Right to Information Act, 2005 and the standards under which Public Information Officers could be penalised for refusing an information request. The CIC had levied a penalty of ₹25,000 on A.S. Rawat, the PIO, for what it believed to be mala fide denial of information to Dawa Tashi, a Tibetan national teaching under the Central Tibetan Schools Administration (CTSA). The ground for imposition of penalty was that refusal to disclose information on the ground of non-citizenship was an act devoid of any justification and was potentially obstructive, counter to the ideals of transparency and accountability laid down in the RTI Act.

The view, however, took an altogether different turn as far as the Delhi High Court was concerned on judiciary review. It had to do more closely with whether the actions of Rawat were really malicious or whether he was merely interpreting the law as it stood in that time. The Court found that Rawat's actions arose neither out of ill will nor from an intention to cause obstruction to justice, but rather from an honest belief that Section 3 of the RTI Act restricted the right to information only to Indian citizens. This was a common understanding among public authorities at the time before the present judgment clarified the position in law. By emphasizing that clear intent or actual malice or deliberate obstruction of information must be proven under Section 20(1) of the RTI Act, which defines aggravations of a PIO, the Court noted that. In Rawat's instance, there was no evidence

of that sort; his acts were based on a good faith reading of the words of the statute, albeit ultimately incorrect in light of the Court's broader, purposive interpretation of the Act.

Keeping in mind the fact that the law is evolving and that there was great ambiguity before this decision regarding authoritativeness, the High Court determined that penalizing Rawat would not be in quest of justice. The penalty imposed by the CIC was therefore set aside. Most importantly, the Court upheld the directive by the CIC that the information requested by *Dawa Tashi* should be made available, reaffirming that public authorities should abide by the law in accordance with the objectives of this act towards transparency and accountability, irrespective of the citizenship status of the applicant. Such an approach put forward by the Court is critical in underlining the important principle penultimate under the RTI Act: no penalty would attach to honest mistakes or interpretations made in good faith, but it reserves penalties for demonstrated, intentional misconduct or malice.

This stands up for all those public officials rendering services within the scope of reasonable legal interpretation against such strict and punitive measures. At the same time, it prevents arbitrary denial of rights under the RTI Act. This judgment attempts to balance accountability by public authorities with the recognition of the complexities involved in statutory interpretation, particularly in areas where the law remains unsettled or where it is still evolving.

V. Critical Appraisal and Consequences

The latest judgment of the Delhi High Court in *A.S. Rawat v. Dawa Tashi* is indeed a great leap in which the court interpreted the RTI Act, 2005, completely different from earlier restrictive readings like that of the Madras High Court, which ruled in *K.K.C. Balaganesan v. Union of India*. The Madras High Court restricted the interpretation to include citizens only. Thus, by interpreting constitutional values and thus bringing it into line with international best

practices, the Delhi High Court extended the definition of RTI to include cases where such access might be attributed also to persons who are not citizens, thereby deriving the reasoning of the judgment from a fundamental principle that must be a basic democratic value completely outside the citizenship status of persons. The real strength of the judgment lies in its coming closer to constitutional morality, more particularly Articles 14 and 21, so that all persons, citizens or not, could drive their accountability from public authorities if their rights or interests were once again affected. The purposive and progressive statutory interpretation by the court prevents arbitrary denial of information and furthers the purposes of the RTI Act, all of which bring the Indian legal system in line with global norms that consider access to information as a human right. Of course, it affects grievously the powerless groups such as the refugees, stateless persons, and foreign nationals, by which they would be able to gain access to important information about their welfare and legal status.

Nevertheless, there are a number of challenges posed by this judgment. First, it introduced an element of subjectivity to the issue of disclosing information, making it susceptible to differing outcomes, at times arbitrary. Different PIOs might possess different interpretations concerning how a request for information is made to them. The clash of conflicting judicial interpretations—in particular that between the Delhi and Madras High Courts—points to the need for the Supreme Court to make an unambiguous ruling so that a uniform application of the law is realized. In the absence of clear parameters from the legislature or the executive, PIOs may be caught in a dilemma between the principles of transparency and legitimate national security or administrative efficiency, which might lead to over- or under-disclosure.

The wider ramifications of this ruling could not be any greater. It strengthens the viewpoint whereby transparency and accountability must be deemed to be the very foundations of

democratic governance, and not privileges or rights pertaining to citizenship. By granting RTI access to non-citizens where the need arises, this judgment strengthens the resolve of the nation toward open governance and protection of the fundamental rights of all persons within the jurisdiction of the Indian state. On the other hand, the ruling has set a clear agenda for policy reform, indicating that legislative changes or detailed guidelines may be required to clarify the dimensions of RTI for non-citizens and set out safeguards against possible misuse. In the end, A.S. Rawat vs. Dawa Tashi now stands as a progressive step toward more inclusive and accountable governance and raises yet another need for legal and policy reform to address practical exigencies that the ruling so created.

VI. Conclusion

In A.S. Rawat v. Dawa Tashi, the Delhi High Court strikes a landmark blow for the evolution of transparency law in India. In this decision, the court attempts to use the provisions of the Act, on one hand, and the constitutional guarantees, on the other, to widen the gap by declaring that information under the RTI Act cannot, in an absolute manner, be denied to non-citizens. While this judgment is another step forward and is in line with international practice, it places a major hurdle for the courts and legislators.

In terms of the road ahead, it will be necessary for the Supreme Court to intervene to formulate uniform guidelines for the contending issues and to facilitate uniform application of a balance between transparency and rightful state interests. However, the judgment sets a strong precedent for inclusive governance and establishes the RTI Act as a tool of justice and accountability for all people within the jurisdictional boundaries of India.

Reference:

Case law:

- A.S. Rawat V. Dawa Tashi (Delhi High Court)

- K.K.C. Balaganesan v. Union of India (Madras High Court): Cited as an example of a restrictive interpretation of the RTI Act, limiting access to citizens only.

Statutes and Legal Provisions:

- **Right to Information Act, 2005 (RTI Act):**
 - Section 3 (Right to information for citizens)
 - Sections 6 and 7 (Procedure for request and disposal, referring to "person" rather than "citizen")
 - Section 20(1) (Penalty provisions for Public Information Officers)
- **Constitution of India:**
 - Article 14 (Equality before law and equal protection of laws)
 - Article 21 (Protection of life and personal liberty)

International Instruments:

- **Universal Declaration of Human Rights (UDHR):** Referenced as an international standard supporting access to information for all persons.
- **International Covenant on Civil and Political Rights (ICCPR):** Cited for its advocacy of access to information for all individuals within a state's jurisdiction.

Institutions:

- **Central Information Commission (CIC):** The appellate authority that initially ruled in favor of Dawa Tashi and imposed a penalty on the PIO.

Summary Table of references:

Type	Reference/Instrument
Case Law	A.S. Rawat V. Dawa Tashi (Delhi High Court)
	K.K.C. Balaganesan v. Union of India (Madras



	High Court)
Statutes/Provisions	RTI Act, 2005 (Sections 3, 6, 7, 20(1))
International Law	UDHR, ICCPR
Institutions	Central Information Commission (CIC)

