

In the High Court of Uttarakhand at Nainital in the matter of Asian Education Charitable Society and another Versus State of Uttarakhand and Ors., Writ Petition No. 2038 of 2009 (MS), Hon'ble Justice Sudhanshu Dhulia, has given a very important judgment about applicability of R.T.I Act. The operative part of the judgement is given below:

" But can the Public Information Officer compel the petitioners to furnish information to citizen or to any other public authority, even though such an information is not already on record of the Public information Officer? In other words, can the Public Information Officer compel the petitioners to furnish certain information from the records of the petitioner's office, even though such an information has not been furnished under any provisions of law by the petitioners before this public authority? The answer to this would be in negative, as it would be an invasion on the privacy of these Institutes, or individual and the Institutes not being a public authority, as it has been held above, cannot be compelled to furnish information. Moreover, in case such an "information" is not already there with such this Public Authority, it cannot be an information "which is held", by the public authority and therefore, it would not be covered under the definition of "right to information" given under Section 2(j) of the Act. Section 2(j) of the Act reads as under:

2(j) "" right to information means the right to information accessible under this Act which is held by or under the control of any public authority".