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What is Fiduciary Relationship

What is Fiduciary Relationship?



RTI ACT 2005

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A fiduciary relationship is defined as “a relationship in which one person is under a duty to act for the benefit of the other on the matters within the scope of the relationship.” “Fiduciary relationship usually arises in one of the four situations: (1) when one person places trust in the faithful integrity of another, who as a result gains superiority or influence over the first, (2) when one person assumes control and responsibility over another, (3) when one person has a duty to act or give advice to another on matters falling within the scope of the relationship, or (4) when there is specific relationship that has traditionally been recognized as involving fiduciary duties, as with a lawyer and a client, or a stockbroker and a customer.”

The traditional definition of a fiduciary is a person who occupies a position of trust in relation to someone else, therefore requiring him to act for the latter's benefit within the scope of that relationship. In business or law, it generally means someone who has specific duties, such as those that attend a particular profession or role, e.g. doctor, lawyer, banker, financial analyst or trustee.

Another characteristic of such a relationship is that the information is given by the holder of information out of choice. When a litigant goes to a particular lawyer, a customer chooses a particular bank, or a patient goes to a particular doctor he has a choice whether he wishes to give the information. An equally important characteristic for the relationship to qualify as a fiduciary relationship is that the provider of information gives the information for using it for his benefit. It is true that such a relationship is based on trust. A person will not choose a doctor, lawyer, banker or trustee unless there is trust. All relationships usually have an element of trust, but all of them cannot be classified as fiduciary. Information provided in the discharge of a statutory requirement, or to obtain a job, or to get a license or passport, cannot be considered to have been given in a fiduciary relationship. In such a situation, it cannot be claimed that the information has been given in a fiduciary relationship.

Another aspect to be taken into account is that information provided by the beneficiary to a fiduciary is held in trust and cannot be shared with anyone, but the reverse is not true. A doctor is not free to discuss a patient's information without the patient's consent, but there is no such binding on the patient sharing the doctor's advice or medication.

Fiduciary Relationship although arises out of a transaction involving trust between two parties, it requires **something more than mere trust to make the relationship fiduciary**. It also cannot be

equated with mere privacy or confidentiality¹⁾ At the heart of fiduciary relationship lie **reliance, de facto control and dominance**. A fiduciary relationship exists when confidence is reposed on one side and there is resulting superiority and influence on the other. The Canadian Courts have developed the following tests for determining whether the fiduciary relationship has been established, viz.

1. The fiduciary has the scope for the exercise of some discretion or power;
2. The fiduciary can unilaterally exercise that power or discretion so as to affect the beneficiary's legal or practical interests; and
3. The beneficiary is peculiarly vulnerable to or at the mercy of the fiduciary holding the discretion or power.
4. The fiduciary is obliged to protect the interests of the other party.

Details:

The traditional definition of a fiduciary is a person who occupies a position of trust in relation to someone else, therefore requiring him to act for the latter's benefit within the scope of that relationship. In business or law, we generally mean someone who has specific duties, such as those that attend a particular profession or role, e.g. financial analyst or trustee.

The information must be given by the holder of information when there is a choice- as when a litigant goes to a particular lawyer, or a patient goes to a particular doctor. It is also necessary that the principal character of the relationship is the trust placed by the provider of information in the person to whom the information is given. An equally important characteristic for the relationship to qualify as a fiduciary relationship is that the provider of information gives the information for using it for his the benefit of the giver. When a committee is formed to give a report, the information provided by it in the report cannot be said to be given in a fiduciary relationship. All relationships usually have an element of trust, but all of them cannot be classified as fiduciary.

The third party can invoke the protection of Section 8 (1) (e) of the RTI act.

A fiduciary relationship²⁾ is one where the key element is that the relationship is **principally characterized by trust and the information is given for use only for the benefit of the giver**. The traditional definition of a fiduciary is a person who occupies a position of trust in relation to someone else, therefore requiring him to act for the latter's benefit within the scope of that relationship³⁾

In business or law, we generally mean someone who has specific duties, such as those that attend a particular profession or role, e.g., financial analyst or trustee. In the case citation here: [Mahesh Kumar Sharma v. PIO, Delhi Jal Board Decision](#) the CIC noted that "a key element of the relationship between the applicant for a water connection and the Delhi Jal Board certainly cannot be said to be primarily of trust by the applicant in the Public authority, nor can it be said that the information was given for the benefit of the giver. The information was provided to get an authorization for a water connection."⁴⁾

RTI Act and Fiduciary Relationship

In a Judgement, Supreme Court India v. S.C. Agarawal & Anr. WP (C) No. 227/2009 dated 20.09.2009(Del), it is discussed that the following kinds of relationships may broadly be categorized as fiduciary.(Ravindra Bhat J.). This can be invoked under [RTI Act Section 8](#) in following cases

1. Lawyer/client
2. Doctor/patient
3. Trustee? Beneficiary (Section 88, Indian Trust Act,1882)
4. Legal guardians/wards (section 20, Guardians and Wards Act,1890)
5. Parent/child
6. Executors and Administrators/legaltees and heirs Board if directors/company
7. Liquidator/company
8. Receivers, trustees in bankruptcy and assignees in insolvency/creditors.

More Common terms under RTI

- [Annual Confidential Report](#)
 - [Citizenship under RTI Act 2005](#)
 - [Competent Authority under RTI Act](#)
 - [Composite Petition under RTI Act](#)
 - [Deemed PIO](#)
 - [Disproportionate Diversion of Resources](#)
 - [What is Fiduciary Relationship](#)
 - [File Notings under RTI Act](#)
 - [Grounds for Rejection](#)
 - [What is Information under RTI Act](#)
 - [Investigation/Inquiry reports under RTI](#)
 - [Justification for Denial of Information is mandatory](#)
 - [Missing Files under RTI Act](#)
 - [Pendency of Investigation](#)
 - [Prescribed](#)
 - [Privacy Rights of Public Servants](#)
 - [What is Privacy under RTI](#)
 - [Public Authority](#)
 - [What is Public Interest](#)
 - [Refund of Fees](#)
 - [RTI Act or Statutory Rules for giving information under RTI Act 2005](#)
 - [Severability](#)
 - [Substantially Financed](#)
 - [Suo Moto Disclosure under RTI](#)
 - [Third Party under RTI](#)
 - [Transfer of Application to other PIO](#)
 - [Vicarious Liability](#)
-
- [Twitter](#)
 - [Facebook](#)
 - [Google+](#)
 - [LinkedIn](#)

- [Tumblr](#)
- [Reddit](#)
- [StumbleUpon](#)
- [Telegram](#)
- [Email](#)

1)

reference IN THE HIGH COURT OF KERALA AT ERNAKULAM W.P. (C) No. 6532 of 2006 (C) Decided On: 30.08.2010 Appellants: Treesa Irish W/o Milton Lopez Vs.Respondent: The Central Public Information Officer, The Appellate Authority, The Central Information Commission and Union of India (UOI).

2)

IN THE HIGH COURT OF KERALA AT ERNAKULAM W.P. (C) No. 6532 of 2006 (C) Decided On: 30.08.2010 Appellants: Treesa Irish W/o Milton Lopez Vs.Respondent: The Central Public Information Officer, The Appellate Authority, The Central Information Commission and Union of India (UOI)

3)

[Rakhi Gupta v. Jt. Director & PIO, National Institute of Open Schooling, Decision No. CIC/SG/A/2009/001343/4053](#)

4)

MANOJ B. PATEL Blog Post titled [Fiduciary Relationship](#)

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