

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 4665 of 2011 (O&M)
Date of decision : April 27, 2015

J.K Woolen and Silk Mills,

..... Petitioner

v.

Union of India and others,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. GS Dhillon, Advocate
for the petitioner.

Mr. Ajay Kaushik, Advocate
for respondent No.2.

Mr. Gurpreet Singh, Advocate

Ms. Gehna Vaishnavi, Advocate
for respondents No.4 and 7.

Mr. SS Sandhu, Advocate
for respondent No.6.

None for respondent No.8.

1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

Ajay Tewari, J (Oral)

By this writ petition, the petitioner has challenged the order of the Central Information Commission, dated 8.9.2010 (Annexure P-17), directing respondents No.3 and 4 to provide information sought by respondents No.8 and 9.

Respondents No.8 and 9 had asked for the following information :-

“a) Certified copies of documents and certificates of various department attached with the request letter of M/S JK Woolen and Silk Mills, Amritsar on behalf of which capacity verification certificate dated 07.04.2006 was issued to aforesaid firm.

b) The certified copies of inspection reports and inspection notes issued by your department of tender No.P-4/207/2006/PC/BSF/82, dated 13.04.2007 (awarded on the basis of aforesaid capacity verification to M/S JK Woolen and Silk Mills).”

As regards the information at clause (a), it is not disputed that the same has already been provided to respondents No.8 & 9. As regards the information at clause (b), the same was denied on the ground that it was hit by the provisions of Section 8(1)(d) of the Right to Information Act (for short “the Act”). Section 8(1)(d) of the Act is an exemption which is carved out in the following terms :-

“8. Exemption from disclosure of information.—

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—

(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.”

In the impugned order, the Commission has noticed that the tender in question was for blankets which were to be purchased by the BSF and they had to conform to certain prescribed standards. As per the Commission, whether the tender of the petitioner actually satisfied the prescribed standards could hardly be covered under Section 8(1)(d) of the Act and disclosure thereof would be in the larger public interest since there was an allegation that actually the samples submitted by the petitioner did

not meet the necessary standards and the petitioner had obtained the order by illegal means.

The first argument raised by counsel for the petitioner is that respondents No.8 and 9 have not been actuated by any public interest but this information has been sought because of the long standing dispute between the petitioner and respondents No.8 and 9. In my considered opinion, the motive which impels a person to move an application under the Act can not be an issue. The information which is exempted may be denied to a person with purest motive but the information which has to be disclosed by law cannot be refused even to a person who has the basest motive.

The second argument raised by counsel for the petitioner is that the petitioner was never heard before the impugned order was passed. Again the issue is whether the information is that which is in the public realm. Once that information is actually in public realm, then whether it affects any person prejudicially or not would hardly be germane and no right of audi alteram partem, in my considered opinion, enures to such a person against whom information is being sought.

The third argument raised by counsel for the petitioner is based on the provisions of Section 8(1)(d) of the Act. A perusal of the said provision reveals that it essentially exempts trade secrets or intellectual property. In the present case, what respondents No.8 and 9 want is information regarding the results of the objective testing of the samples submitted by the petitioner to see whether it conforms to the prescribed standards. I fail to understand what would be the trade secrets or intellectual property in this matter. In the circumstances, I find no merit in

this writ petition and the same is dismissed.

April 27, 2015
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(AJAY TEWARI)
JUDGE