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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 83/2015 & CM No.2847/2015

UNION OF INDIA

..... Appellant

Through: Mr. Jasmeet Singh, CGSC for UOI.

Versus

RAKESH D SONI & ANR

..... Respondents

Through: None.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

28.11.2016

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1. This appeal is directed against the order of the learned Single Judge dated 16.12.2014 in W.P.(C) No.2158/2014.
2. The Union of India/unsuccessful petitioner is the appellant before us.
3. We have heard the learned counsel for both the parties.
4. The material available on record shows that the respondents herein invoked the provisions of the Right to Information Act, 2005 (for short 'RTI Act') seeking identical information in respect of suspension of Non-Scheduled Operator's permit No.08/1998 of a company by name, Global Vectra Helicorp Limited (GVHL) consequent upon the withdrawal of security clearance by Ministry of Home Affairs. However, the CPIO declined to furnish the information on the ground that the same is exempt from disclosure as per Section 8(a), (g) and (h) of RTI Act. The CPIO was

of the view that providing the information sought by the applicants i.e. the reasons for withdrawal of security clearance by the Ministry of Home Affairs would amount to revelation of the information relating to the central security and Intelligence agencies. Challenging the said order of CPIO dated 27.06.2012, the respondents herein filed appeals before the Information Commissioner. By order dated 20.11.2013, the appeals were allowed and the CPIO was directed to provide the reasons broadly as available on records of the public authority for withdrawal of the security clearance of GVHL consequent upon which the permit was suspended by the Directorate General of Civil Aviation.

5. The said order of the Information Commissioner dated 20.11.2013 was assailed by the Union of India before this Court by filing W.P.(C) No.2158 of 2014. By the order under appeal dated 16.12.2014, the learned Single Judge dismissed the writ petition holding that the contention that the information sought is exempt under Section 24 of the RTI Act is wholly misconceived and therefore, the Chief Information Commissioner had rightly directed to furnish the said information.

6. The said order is under challenge in the present LPA preferred by the Union of India, Ministry of Home Affairs.

7. Though it is vehemently contended by Sh.Jasmeet Singh, the learned CGSC appearing for the appellant that the order under appeal is erroneous in the light of the decision of the Division Bench of this Court in ***ESAB India Limited vs. Special Director of Enforcement & Anr.*** **178 (2011) DLT 569 (DB)**, it is submitted by the learned counsel for the respondents that the order of suspension of the Non-Scheduled Operator's permit of GVHL was stayed by this Court in different proceedings and subsequently, the said permit has

also been extended by the Director General of Civil Aviation by order dated 30.04.2016 for a further period of two years and therefore, it may not be necessary for this Court to adjudicate the matter on merits. The learned counsel for the appellant has not disputed the fact that the permit of GVHL has been in operation as of today and that the same has been extended for a further period. We, therefore, by order dated 05.09.2016 directed the parties to produce a copy of the order of extension of permit.

8. In terms thereof, the respondent No.1 herein alongwith his affidavit dated 08.09.2016 has placed before this Court the orders dated 29.04.2016 and 30.05.2016 passed by DGCA renewing the Non-Scheduled Operator's permit of GVHL for a period of two years, i.e., 28.04.2018 subject to outcome of W.P.(C)No.2775/2012. It is explained in the affidavit that the suspension of the permit vide order dated 07.05.2012 by DGCA was challenged by GVHL by filing W.P.(C)No.2775/2012 and by order dated 11.06.2012, the interim order was passed by the learned Single Judge suspending the order dated 07.05.2012 and that the said order has been in operation. We have noted that LPA No.645/2012, LPA No.816/2012 and LPA No.817/2012 preferred by DGCA against the interim order passed by the learned Single Judge was disposed of by a Division Bench by order dated 21.04.2016 without disturbing the order of the learned Single Judge.

9. In the facts and circumstances noticed above, it appears to us that the issues raised in this appeal with regard to the question as to whether the information sought by the respondents herein is exempt under Section 24 of the RTI Act needs no adjudication in the present appeal and the same can be left open for consideration in an appropriate case.

10. Accordingly, the appeal is disposed of granting liberty to the appellant to raise the question of law involved in the present appeal in case necessity thereof arises.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

NOVEMBER 28, 2016
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