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

\+ W.P.(C) 7954/2007

CANARA BANK ..... Petitioner
Through: Ms. Hetu Arora Sethi, Advocate with
Mr. Shravan Sahny, Advocate.

versus

P.N.SHUKLA & ANR ..... Respondents
Through: Respondent No.1 in person.

% Date of Decision: 18th January, 2016

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present writ petition has been filed challenging the order dated 05th March, 2007 passed by the Central Information Commission as well as the order dated 01st June, 2007 whereby the Central Information Commission had asked the petitioner to file its response within ten days with regard to the issues raised in the said letter.

2. Learned counsel for petitioner states that the information directed to be released by the Central Information Commission vide the impugned order dated 05th March, 2007 is exempt from disclosure under Section 8(1)(j) of the Right to Information Act, 2005.

3. It is pertinent to mention that the Central Information Commissioner in the impugned order has held that when a citizen seeks information about his own case, the same cannot be denied to him under Section 8(1)(j) of the Right to Information Act, 2005.

4. In fact, the issue raised in the present writ petition is no longer *res integra*. A Coordinate Bench of this Court in ***State Bank of India vs. Mohd. Shahjahan***, ***W.P.(C) 9810/2009*** while dealing with a similar issue has held as under:-

> *"24. It was urged by Mr. Kapur that marks given in the PAF by the Superior Officer of the Respondent was information held by the SBI in a fiduciary capacity and that disclosure of such information, even to the Respondent, would be in breach of the fiduciary relationship that the SBI has with the superior officer. In the considered view of this Court, this is a misreading of Sections 8 (1) (e) and (j) of the RTI Act. The fiduciary relationship, if at all, is between the employer and the employee. The information which is expected to be kept exempt from disclosure is the information concerning the employee, in this case, the Respondent herein. The exemption is from disclosure to a third party and certainly not to the Respondent himself. In fact, as explained in Dev Dutt, if the intention of making an adverse entry is to enable the Respondent to improve his performance, then that purpose is not served by keeping the information from him. Unless the adverse entry is communicated to the employee and he is allowed to explain his position, the purpose of getting him to improve his performance will not be achieved.*
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> *25. The submission that the disclosure of such information would jeopardize the relationship between the Respondent and the superior officer who recorded the entry is also misconceived. The Respondent already*

knows who his superior officer is and that it is the superior officer who has recorded the adverse entry. That fact is not a secret as far as the Respondent is concerned. Therefore, this can hardly be the ground to deny the Respondent information concerning the adverse entry made in the Respondent's ACR or his PAF. If the object is that the Respondent should improve his performance, then it is in the best interests of the organisation itself and the Respondent that such information is disclosed to the Respondent. In the considered view of this Court, the information sought by the Respondent concerning himself, and which has been directed to be disclosed by the CIC, is not protected from exemption under Section 8 (1) (e) of the RTI Act. This is also the tenor of the judgment of the learned Single Judge of this Court in Union of India v. Central Information Commission 165 (2009) DLT 559 where while interpreting Section 8 (1) (e) of the RTI Act it was explained that where information can be furnished without compromising or affecting confidentiality and identity, it should be supplied and the bar under Section 8 (1) (e) cannot be invoked. There is no question, therefore, of not providing the information concerning the Respondent to the Respondent himself.

26. The provision of Section 8(1) (j) is also not attracted. The disclosure to the Respondent of the information concerning himself can hardly be said to be an unwarranted invasion of his privacy. This is information about himself which he needs to know as it provides the reason why he was not considered for promotion. Therefore, the information directed to be disclosed by the SBI to the Respondent is only the "disaggregated marks awarded to him in the promotion process" and cannot be stated to be covered under Section 8 (1)(j) of the RTI Act."

5. Keeping in view the aforesaid mandate of law, the petitioner's plea with regard to exemption under Section 8(1)(j) of the Right to

Information Act, is rejected.

6. This Court is also of the view that the other impugned order dated 01st June 2007 is only in the nature of show cause and if the petitioner has good reason not to disclose the information directed in the notice dated 01st June, 2007, it can raise its pleas and defences before the Central Information Commission.

7. With the aforesaid observations, present writ petition is dismissed.

MANMOHAN, J

JANUARY 18, 2016
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