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

+ **W.P.(C) 1882/2017**

HARKRISHAN DAS NIJHAWAN

..... Petitioner

versus

**SATYAVIR KATAR, CPIO DELHI POLICE
LICENSING UNIT & ORS**

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Petitioner in person.

For the Respondent : Mr. Arun Panwar and Mr. Akshay Choudhary,
Advocates for GNCTD

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

24.04.2017

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner by the present petition seeks quashing of order dated 29.12.2017 whereby the application of the petitioner under Section 20(1) of the Right to Information Act, 2005 (hereinafter referred to as the Act) has been rejected. The petitioner further seeks initiation of disciplinary inquiry against the respondent no. 1 to 4 in response to show cause notice under Section 20(1) of the Act.

2. The petitioner had sought certain information from the respondents under the Act. The information was denied. The petitioner aggrieved there from filed an application under Section 20(1) of the Right to Information Act, 2005. The proceedings initiated under Section 20(1) of the Act have been closed vide the impugned order dated 29.12.2016.

3. It is an admitted position that the information has already been furnished to the petitioner. The CIC had directed that redacted information be provided. The petitioner has already received un-redacted information in a public interest litigation filed by the petitioner.

4. The petitioner being aggrieved there from, filed an application under Section 20(1) of the Act. The proceedings initiated under Section 20(1) of Act the have been closed by the impugned order dated 29.12.2016.

5. The CIC in the impugned dated 29.12.2016 has recorded as under:-

“Hearing on 22.11.2016:

11. The respondents S/Shri Satyavir Katara, DCP (Licencing), Ved Parkash, ACP(Licencing) and SI Kamal Kishore were present in person.

12. The respondent in his written submissions dated 21.10.2016 and 22.11.2016 has submitted that there was no intention to deny any information to the complainant. However, the reasons for not furnishing the information to their complainant is that the report of Special Branch' contains the enquiry, report in respect of the complainant and as such the information was denied under Section 8(l)(g) of the RTI Act because the disclosure of information would endanger physical safety of the person/enquiry officer, who prepared the enquiry report. In view of this, a view was taken that the disclosure of the information sought was exempted under Section 8(l)(g) of the RTI Act. The respondent agreed that information could have been provided after severance of the information whose disclosure was exempted under the RTI Act. However, inadvertently the reply dated 26.06.2015 was furnished to the complainant. The respondent stated that their act was, however, not intentional or deliberate. The respondent further submitted that the information sought can be provided to the complainant. The respondent also stated that the lapse was due to incorrect interpretation of the provision of the RTI Act, and not due to malafide intent to deny information to the complainant. Hence, the respondent requested the Commission to drop the Show Cause notice issued against them.

Decision:

13. The Commission, after hearing the submissions of the respondent and perusing the records, observes that the disclosure of the information sought on the point nos. 2 and 3 of the RTI application could have endangered the physical safety of the person/enquiry officer, who had

prepared the enquiry report. However, the Commission is of the opinion that the information could have been provided after severance of the information, disclosure of which was exempted under the RTI Act. Hence, the respondent has not interpreted the provisions of Section 8 (1) (g) of the RTI Act, 2005 in the right perspective to deny information to the complainant. However, this was done in good faith and there was no malafide intent on part of the respondent to deny or obstruct the flow of information to the complainant. The denial, therefore, was on account of incorrect interpretation of Section 8(1) (g) of the RTI Act, by the respondent, who as per his own understanding, interpreted and applied it to the facts of the present case, in order to prevent any danger to the physical safety of the person/enquiry officer, who had prepared the enquiry report. In view of this, it would not be appropriate to impose a penalty on the CPIO. The show cause notice against the respondent is, therefore dropped.”

6. The CIC has accepted the explanation rendered by the respondent that information was bonafidely not provided and the action was taken in good faith. The CIC has further accepted the explanation that there was no malafide intention on the part of the respondent to deny or obstruct the flow of information to the complainant.

7. The information was withheld as the respondents were of the view that disclosure of information could have endangered the

physical safety of the person/enquiry officer, who had prepared the enquiry report. The Respondent had interpreted the provisions of the Act and declined to provide information in order to prevent any danger to the physical safety of the person/enquiry officer, who had prepared the enquiry report.

8. I am of the view that the view taken by the CIC is a plausible view. The application under Section 20(1) of the Act is really between the CIC and CPIO. The CIC has rightly decided not to take any further action and the view taken by the CIC is a plausible view.

9. I find no infirmity with the view taken by the CIC and find no ground to interfere with the order passed by the CIC. I find no merit in the petition. The writ petition is accordingly dismissed. No order as to cost.

SANJEEV SACHDEVA, J

APRIL 24, 2017

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