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

+ **W.P.(C) 1949/2017**

THE CPIO, MINISTRY OF HOME AFFAIRS Petitioner

Through Mr Rahul Sharma, Ms Jyoti Dutt Sharma,
Mr C.K. Bhatt, Advocates.

versus

CENTRAL INFORMATION COMMISSIONER
& ANR

..... Respondents

Through Mr Nikhil Barwankar, Mr Pankaj
Sharma, Mr Shobhit K. and Mr Varsha Ranjan,
Advocates for R2.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER
27.07.2017

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VIBHU BAKHRU, J

1. The petitioner (CPIO) has filed the present petition impugning an order dated 21.11.2016 passed by the Central Information Commission (hereafter 'CIC') directing the petitioner to inform whether any security clearance was given to one Shri Hameed Ali who is stated to be working with M/s Jet Airways Ltd. on senior management positions.

2. Respondent no.2 had filed an application under the Right to Information Act, 2005 (hereafter 'the Act') on 19.04.2015, *inter alia*, seeking the following information:-

“Under the provisions of RTI please supply the following

information. It is learnt that one Mr. Hameed Ali, presently Group Advisor, Jet Airways and Etihad Airways, has been working with M/s Jet Airways India Limited since 2008 in various senior management positions namely Vice-President Operations, Executive Vice-President Operations, Chief Operating Officer, Accountable Manager – M/s Jet Lite Limited and Acting Chief Executive Officer-M/S Jet Airways India Limited. Further it is understood that this Mr. Hameed Ali is a foreigner, a national of Bahrain. 1. Kindly provide a copy of the security clearance and its renewal if any, obtained by Jet Airways towards employment of Mr. Hameed Ali.”

3. The information as sought for by the respondent no.2 was denied by the CPIO on the ground that any comments of the Ministry of Home Affairs on any proposal seeking security clearance are based on inputs received from Intelligence Agencies which are exempted from the Act by virtue of Section 24 of the Act. The CPIO further claimed that the information as sought for was also exempt from the Act by virtue of Section 8(1)(g) of the Act. Dissatisfied with aforesaid response, the said respondent preferred an appeal before the First Appellate Authority (FAA), which was also rejected by an order dated 08.07.2015. The FAA, also held that the information as sought for by respondent no.2 was exempt in terms of Section 8(1)(g) of the Act since the disclosure of information relating to security clearance of entities/individuals in sensitive sectors of the economy can prejudicially affect the economic interests of the state.

4. The respondent no.2 appealed against the decision of the FAA, which was allowed by the impugned order. The operative part of the impugned order reads as under:-

“The Commission, after hearing the submission of both the parties and perusing the records, observes that the

information has been denied to the appellant on the ground of Sections 8(1)(g) and 24(1) of the RTI Act. However, keeping in view the nature of information sought, the Commission is of the opinion that the exemptions invoked by the respondent would not be applicable to the present case and at best, exemptions available in the present case could be that the information sought relates to a third party. However, no such exemption was claimed by the respondent. The Commission, is of the opinion that the information sought, if disclosed, would serve large public interest since it relates to the issue of security clearance of a person who is working as a senior functionary in the Aviation Sector and not following proper procedures while granting security clearance to such persons could pose a grave threat to the security and safety of the passengers, who travel by air. In view of this, the Commission, directs the respondent to inform the appellant whether any security clearance was given to one Shri Hameed Ali or not, within a period of four weeks from the date of receipt of a copy of this decision.”

5. The learned counsel appearing for the petitioner submitted that the information regarding security clearance emanates from intelligence agencies and in terms of Section 24 of the Act, such agencies were outside the purview of the Act. She further pointed out that not only were the organizations mentioned in the schedule to Act are outside the sweep of the Act, but in terms of Section 24 of the Act, any information received by the government from such organisations was also outside the scope of the Act. She further contended that the information as sought for by respondent no.2 was also exempt under Section 8(1)(g) of the Act.

6. Before addressing the controversy, it is relevant to state that respondent no.2 is not seeking any information from the specified security

agencies or any information emanating from them. The respondent no.2 has narrowed down the scope of his inquiry and is only seeking information, whether security clearance was granted to M/s Jet Airways in respect of one Mr Hameed Ali. Such security clearance is mandatory in terms of para 3.4 of the Civil Aviation Requirement (CAR) issued by the Office of the Director General of Civil Aviation. The said para reads as under:-

“3.4 Security Clearance

3.4.1 Ministry of Home Affairs (MHA) is the competent authority for grant of Security Clearance. In accordance with Policy Guidelines of MHA on National Security Clearance the applicant/company and its Board of Directors shall obtain security clearance from Ministry of Home Affairs (MHA).

3.4.2 The Positions of the Chief Executive Officer (CEO) and/or Chief Financial Officer (CFO) and/or Chief Operating Officer (COO), and/or any other similar Designation(s) exercising management control, if held by foreign nationals, would also require security clearance from MHA.”

7. The learned counsel for the respondents has also pointed out that the Director General of Civil Aviation permits operation of air carriers subject to certain eligibility conditions, which include regulation of foreign involvement (either in terms of investment or in management/operations).

8. Given the narrow scope of the information sought by respondent no.2, this Court is not persuaded to accept that the said information can be either classified as emanating from organizations specified under the Second schedule to the Act and/or are otherwise exempt from disclosure under Section 8(1)(g) of the Act. Section 8(1)(g) of the Act reads as under:-

“8. Exemption from disclosure of information.-: (1)
Notwithstanding anything contained in this Act, there shall be
no obligation to give any citizen,-

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(g) Information, the disclosure of which would endanger the life
or physical safety of any person or identify the source of
information or assistance given in confidence for law
enforcement or security purposes.”

9. The information that respondent no.2 seeks does not in any manner
endanger any person's life or could possibly lead to identifying any source
of information or assistance given in confidence for law enforcement or for
security purposes. Clearly, the petitioner's contention that the information
sought for is one that would disclose any source of information received
from security agencies, is unsustainable. The information sought for does
not require any personal details or any trade secrets. It relates only to
eliciting information relating to the Ministry of Home Affairs, Government
of India and for ascertaining whether certain statutory compliances under the
CAR have been met.

10. In view of the above, the petition is dismissed. Parties are left to bear
their own costs.

VIBHU BAKHRU, J

JULY 27, 2017

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