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

% Pronounced on: 12.04.2017

\+ LPA No.280/2016

VIKAS VERMA ..... Petitioner
Through Mr.Akhil Sibal, Adv. with Mr.Nikhil Chawla and Mr. Aditya Panda, Advs.

Versus

THE DIRECTOR (MRTS) & CPIO ..... Respondent
Through Mr.Vivek Goyal, CGSC.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J.

1. The present Letters Patent Appeal is filed seeking to impugn the order dated 02.03.2016 by which order the learned Single Judge of this court dismissed the writ petition filed by the appellant seeking a writ of mandamus/directions to the respondent to furnish a copy of the Enquiry Committee's report which was constituted to look into the defects in the civil structure of Delhi Airport Metro Express Line and to set aside the order dated 04.02.2015 passed by the Central Information Commission denying the said report.

2. The relevant facts are that the respondent constituted a two-member Enquiry Committee to enquire into the defects in the civil structure of Delhi

Airport Metro Express Line. A Report is said to have been submitted to the respondent on 30.03.2013 or thereabouts. The appellant is an employee of Delhi Airport Metro Express Pvt. Ltd. On 13.05.2014, he made an application under the Right to Information Act, 2005 (hereinafter referred to as the RTI Act) before the concerned Central Public Information Officer and sought copy of the report, copies of all the correspondence between the respondent and the Enquiry Committee and inspection of the records. The concerned Central Public Information Officer rejected the request of the appellant under Section 8(1)(i) of the RTI Act on the ground that various issues relating to the information which was sought by the appellant had been put before the Empowered Groups of Ministers (EGoM) on Mass Rapid Transit System (MRTS) for its consideration and directions.

3. The appellant aggrieved by the said letter dated 29.05.2014 filed an appeal before the first appellate authority. The first appellate authority by its order dated 10.07.2014 rejected the appeal of the appellant. The appellant thereafter filed a second appeal under Section 19(3) of the RTI Act before the Central Information Commission (CIC). CIC by its order dated 04.02.2015 rejected the appeal.

4. Learned Single Judge has noted that in the course of hearing, the counsel for the respondent has handed over copies of the file noting of the decision taken with the approval of the respondent that all issues relating to the Airport Line would be placed before the Cabinet for consideration/directions and all issues including findings of the Enquiry Committee were part of the EGOM note which would now be part of the Cabinet note. The learned Single Judge noted that he had perused the original file and noted that apart from other aspects, the project was

sanctioned with the permission of EGoM. Various other aspects as available in the file were also noted by the learned Single Judge. Keeping in mind Section 8(1)(i) of the RTI Act, the learned Single Judge concluded that the exemption granted from disclosure cannot be defeated by allowing the disclosure of information which have been exempted by the statute. It also noted that considerable time may be taken in an administrative decision especially when several Ministries are involved, as in the present case and preparation of a note with supporting material put up before the Cabinet may take considerable time. The same would not allow a disclosure. The writ petition was accordingly dismissed.

5. We have heard learned counsel for the parties.

6. Learned counsel for the appellant has reiterated that as per the decision taken, the EGoM has been abolished. It is further submitted that the enquiry report has already been sent to Delhi Metro Rail Corporation (DMRC) and Central Vigilance Commission (CVC) and there can be no reason not to serve the copy on the appellant also.

7. Section 8(1)(i) of the RTI Act, 2005 reads as follows:-

> "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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> (i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:
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> Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the

> decision has been taken, and the matter is complete, or over:
>
> Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;
>
> xxx"

8. Hence cabinet papers including records of deliberations of the Council of Ministers are exempt from disclosure.

9. The Supreme Court in the case of ***Institute of Chartered Accountants of India vs. Shaunak H. Satya And Ors., (2011) 8 SCC 781*** held as follows:-

> "25. Therefore when Section 8 exempts certain information from being disclosed, it should not be considered to be a fetter on the right to information, but as an equally important provision protecting other public interests essential for the fulfilment and preservation of democratic ideals. Therefore in dealing with information not falling under Section 4(1)(b) and (c), the competent authorities under the RTI Act will not read the exemptions in Section 8 in a restrictive manner but in a practical manner so that the other public interests are preserved and the RTI Act attains a fine balance between its goal of attaining transparency of information and safeguarding the other public interests.
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> 26. Among the ten categories of information which are exempted from disclosure under Section 8 of RTI Act, six categories which are described in Clauses (a), (b), (c), (f), (g) and (h) carry absolute exemption. Information enumerated in Clauses (d), (e) and (j) on the other hand get only conditional exemption, that is the exemption is subject to the overriding power of the competent authority under the RTI Act in larger public interest, to direct disclosure of such information. The information referred to in Clause (i) relates to an exemption for a specific period, with an obligation to make the said information public after such

> period. The information relating to intellectual property and the information available to persons in their fiduciary relationship, referred to in Clauses (d) and (e) of Section 8(1) do not enjoy absolute exemption. Though exempted, if the competent authority under the Act is satisfied that larger public interest warrants disclosure of such information, such information will have to be disclosed. It is needless to say that the competent authority will have to record reasons for holding that an exempted information should be disclosed in larger public interest."

10. It is hence settled law that the exemptions under Section 8 are not to be read in a restrictive manner but in a practical manner.

11. Learned Single Judge in the present case has after perusal of the record noted that all issues pertaining to Airport Line are to be placed before the Cabinet for consideration/directions. In the counter affidavit filed by the respondent before the learned Single Judge it has again been clarified that the report of the Enquiry Committee is under consideration of EGOM on Mass Rapid Transport System (MRTS). It is also clarified that EGoM had been abolished but not cabinet committee.

12. In the light of the above, we see no reasons to interfere with the impugned order. The papers sought by the appellant are pending consideration of the Cabinet. Accordingly, in view of Section 8(1)(i) of the RTI Act, the appellant cannot seek the necessary information that he is seeking at this stage.

13. We may also note that it has been pointed out to us that the appellant is an employee of Delhi Airport Metro Express Pvt. Ltd. An Arbitration case is pending on between the said Delhi Airport Metro Express Pvt. Ltd. and DMRC.

14. We see no reason to interfere with the impugned order. The appeal is accordingly dismissed.

(JAYANT NATH)
JUDGE

CHIEF JUSTICE

APRIL 12, 2017
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