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

+ **W.P.(C) 7218/2016**

KAMAL BHASIN

..... Petitioner

Through: In person

versus

RADHA KRISHNA MATHUR & ANR.

..... Respondents

Through: Mr. Ruchir Mishra and Mr. Abhishek  
Rana, Advocates for UOI

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

% **01.11.2017**

**VIBHU BAKHRU, J**

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 05.04.2016 (hereafter 'the impugned order') passed by the Central Information Commission (CIC), whereby the petitioner's second appeal preferred under Section 19(3) of the Right to Information Act, 2005 (hereafter 'the Act') against the order dated 13.03.2014 passed by the First Appellate Authority (hereafter 'FAA'), was rejected. By the said order dated 13.03.2014, the FAA had in turn rejected the petitioner's appeal against denial of information by the CPIO.

2. The petitioner and several other persons including PFC Officers Association had filed complaints against Sh Satnam Singh, who was then Chairman-cum-Managing Director of M/s Power Finance Corporation Ltd (hereafter 'PFC'). The petitioner sought certain information relating to the manner in which the complaints were dealt with and action taken on the complaints made. His request was denied on the ground that disclosure of such information was exempted by virtue of Section 8(1)(j) of the Act. The

petitioner being aggrieved by the non-disclosure of the information has filed the present petition. Although, the petitioner has also sought information regarding notings in the file etc., the petitioner has restricted his request only for the information regarding the action taken on the complaints. Thus, the limited controversy involved in the present petition is whether the information regarding action taken pursuant to complaints can be denied to the complainant under Section 8(1)(j) of the Act.

3. Briefly stated, the relevant facts necessary to address the present controversy are as under:-

2.1 The PFC Officers Association had filed a complaint dated 03.09.2010 seeking a probe regarding the allegations of irregularities and dubious conduct against the then Chairman-Cum-Managing Director (hereafter 'CMD') of PFC, which was stated to have been forwarded to respondent no.2. One of the principal allegations made against the then CMD of PFC was that he had been running a private limited company, M/s Legendry Legal & Management Services Private Limited, from the residential accommodation leased by PFC. It was alleged that this was impermissible. In addition, it was also alleged that PFC had suffered a loss of about ₹27 crores with regard to settlement of disputes with one of its borrowers which was at the instance of the then CMD. Further, there was also an allegation of sexual harassment against the CMD.

2.2 The petitioner filed an application dated 11.11.2013 seeking information regarding the complaints made and in reference to various letters referred to in the application. Essentially, the petitioner requested for

records, files, notings and action taken report in respect of the complaints against the then CMD as referred to above.

2.3 The CPIO of respondent no.2 responded to the aforesaid request by stating that all complaints (except complaint dated 10.01.2013 which had not been received in the office) were placed before the Group of Officers constituted vide OM No. 15(1)/2010-DPE(GM) dated 11.03.2010 to look into the complaints against Chief Executives and Functional Directors of Public Sector Enterprises, in different meetings and were disposed of. The CPIO declined to provide any further information by referring to the decision of the Supreme Court in ***Girish Ramchandra Deshpande v. CIC : 2013 (1) SCC 212*** and claiming that the information sought was in nature of “personal information” and thus, exempt from disclosure under Section 8 (1) (j) of the Act.

2.4 Aggrieved by the denial of information, the petitioner preferred a first appeal under Section 19 of the Act before the FAA, which was also rejected by an order dated 17.02.2014. Aggrieved by the same, the petitioner preferred a second appeal under Section 19(3) of the Act before the CIC. The said appeal was also rejected by the impugned order and this has led the petitioner to file the present petition.

4. In its rejoinder, the petitioner has clarified that it is not seeking any personal information and “all that the petitioner wants to know is as to what action was taken by the Cabinet Secretariat on the letter dated 02.03.2012 of the Ministry of Power and letters of the petitioner”.

5. The learned counsel appearing for respondent no.2 submitted that the

complaints had been placed before the Group of Officers and a decision had been taken to follow the advice for initiating disciplinary proceedings. He stated that as to what happened thereafter is not available with respondent no.2. He also referred to the decision of the Supreme Court in ***Girish Ramchandra Deshpande*** (*Supra*) and stated that memos, show-cause notices and censure/punishment awarded by an employer to his employee is a matter of 'personal information' and is, therefore, exempt from disclosure under Section 8(1)(j) of the Act. In the facts of the present case, the reliance placed on the decision in the case of ***Girish Ramchandra Deshpande*** (*supra*) is misplaced. In that case the petitioner had sought various details regarding an officer (respondent no.3 therein) who was employed as an Enforcement Officer in the Sub-Regional Office, Akola. The information sought included the details of his appointment, salary, information regarding his promotion, show cause notice and censure issued to him, copies of his income tax returns, assets and liabilities etc. A bare perusal of the information sought clearly indicated that disclosure of such information would be a serious invasion to the privacy of the employee concerned. It is in this context that the Supreme Court held as under:-

“12. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the

other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

13. The details disclosed by a person in his income tax returns are "personal information" which stand exempted from disclosure under clause(j) of Section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information.

14. The petitioner in the instant case has not made a bona fide public interest in seeking information, the disclosure of such information would cause unwarranted invasion of privacy of the individual under Section 8(1)(j) of the RTI Act.

15. We are, therefore, of the view that the petitioner has not succeeded in establishing that the information sought for is for the larger public interest. That being the fact, we are not inclined to entertain this special leave petition. Hence, the same is dismissed."

6. In the present case, the petitioner stands as a relator party as he is also one of the complainants. The petitioner is not seeking any personal information regarding respondent no.3, but merely seeks to know the outcome of the complaint made by him and other such complaints. The PFC Officers Association had pointed out certain conduct which according to them was irregular and warranted disciplinary action; thus, they would be certainly entitled to know as to how their complaints have been treated and

the results thereof.

7. Section 8 (1) (j) 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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(j) information which relates to personal information the disclosure of which has not relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.”

8. It is apparent from the plain reading of the aforesaid clause that in order to claim exemption from disclosure of any information, the essential conditions that must be satisfied are: (i) that it is personal information the disclosure of which has no relationship to any public activity or interest; or (b) that it would cause unwarranted invasion of the privacy of the individual. However, even if the aforesaid conditions are satisfied, the Central Public Information Officer or the State Public Information Officer or the Appellate Authority may disclose the information if they are satisfied that the larger public interest justifies the disclosure of such information.

9. The proviso of Section 8 (1) of the Act is also important and reads as under:

" Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to

any person."

10. By virtue of the aforesaid proviso to Section 8(1) of the Act, it is enacted that information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person. In the present case, it was doubtful whether information as to the fate of the complaints can be considered as personal information that has no relationship with public interest or public activity. The activity of the Central Vigilance Department includes investigation and taking action in cases of corruption. Secondly, the complaint related to the allegations of misconduct and how these complaints were treated were clearly matter of public interest.

10. In the circumstances, this Court directs the respondent to disclose to the petitioner as to what action had been taken pursuant to his complaint and other similar complaints made against the then CMD. The petitioner would not be entitled to any notings and deliberations of the Group of Officers or Disciplinary Authority but only information as to what action was taken in relation to the complaints in question.

11. Let the said information be provided within a period of four weeks from today.

12. The petition is disposed of with the aforesaid direction.

**VIBHU BAKHRU, J**

**NOVEMBER 01, 2017**

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