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

+ **W.P.(C) 7439/2012**

CPIO CBI

..... Petitioner

Through: Mr Sanjeev Bhandari, Advocate for
CBI.

versus

CJ KARIRA

..... Respondent

Through: Respondent in person.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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07.09.2017

VIBHU BAKHRU, J

1. The petitioner has filed the present petition impugning an order dated 31.10.2012 passed by the Central Information Commission (hereafter 'CIC') whereby CIC had directed the petitioner to provide the information as sought by the petitioner.

2. It is the case of the petitioner that Central Bureau of Investigation (hereafter 'CBI') is included in the second schedule to the Right to Information Act, 2005 (hereafter 'the Act') and, by virtue of section 24(1) of the Act, is exempt from the purview of the Act.

3. The respondent disputes the above contention and claims that, by virtue of the proviso to section 24(1) of the Act, the information sought by him is not exempt from disclosure. The petitioner controverts the aforesaid

contention and contends that the information sought by the petitioner does not fall within the proviso to Section 24(1) of the Act.

4. In view of the above, the only controversy to be addressed is whether the information sought by the petitioner falls within the proviso to Section 24(1) of the Act.

5. The respondent had filed an application dated 31.01.2012 with the petitioner, *inter alia*, seeking the following information for the period January 2007 to December 2011.

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- "1. All the Ministries / Departments of the Government of India.
 2. Union Public Service Commission/Lok Sabha Secretariat/Rajya Sabha Secretariat/Cabinet Secretariat/Central Vigilance Commission/ President's Secretariat/Vice-President's Secretariat/Prima Minister's Office/Planning Commission/Election Commission.
 3. Central Information Commission/State Information Commissions
 4. Staff Selection Commission, CGO Complex, New Delhi
 5. Office of the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi
 6. All Officers/Desks/Sections, Department of Personnel & Training and Department of Pension & Pensions Welfare"

6. The petitioner had responded to the aforesaid request by a letter dated 05.03.2012 claiming that CBI was included within the second schedule to the Act and, thus, in terms of section 24(1) of the Act was excluded from the

applicability of the Act.

7. Before proceeding further, it would be relevant to refer to Section 24(1) of the Act, which is set out below:-

"24. Act not to apply in certain organizations.—(1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request."

8. It is apparent from the plain reading of the first proviso to Section 24(1) of the Act that information pertaining to allegations of corruption and human rights violation are not excluded from the purview. The petitioner contended that since the information sought related to allegations of corruption, the same were not excluded from the scope of Section 24(1) of the Act.

9. The learned counsel for the petitioner had countered the aforesaid contention and submitted that the proviso must be read in a restricted

manner and, only information pertaining to allegations of corruption relating to the public authority - in this case CBI - was excluded from the purview of Section 24(1) of the Act. It was contended that since the information sought by the respondent pertain to allegations of corruption in other organisations, the first proviso would be inapplicable and, the petitioner would not be obliged to disclose the same.

10. The aforesaid question is squarely covered by the decision of the Coordinate Bench of this Court in ***CPIO, Intelligence Bureau v. Sanjiv Chaturvedi: W.P.(C) 5521/2016, decided on 23.08.2017***, whereby this Court has held as under:-

"29. The plain reading of the proviso shows that the exclusion is applicable with regard to any information. The term "any information" would include within its ambit all kinds of information. The proviso becomes applicable if the information pertains to allegations of corruption and human rights violation. The proviso is not qualified and conditional on the information being related to the exempt intelligence and security organizations. If the information sought, furnished by the exempt intelligence and security organizations, pertains to allegations of corruption and human rights violation, it would be exempt from the exclusion clause.

30. The proviso "Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section" has to be read in the light of the preceding phrase "or any information furnished by such organisations to that Government".

31. When read together, the only conclusion that can be drawn is that, if the information sought pertains to allegation of corruption and human right violation, it would be exempt from the exclusion clause, irrespective of the fact that the

information pertains to the exempt intelligence and security organizations or not or pertains to an Officer of the Intelligence Bureau or not."

11. The respondent who is present in Court states that the information sought by him has become stale and, he be permitted to file a fresh application under the Act. Plainly, the respondent is not precluded from filing an application before the petitioner for information relating to allegations of corruption or human rights violation. In the event such application is filed, the petitioner would examine the same. Although, it would not be open for the petitioner to claim that information relating to allegations of corruption in other organisation is exempt from disclosure, however, the petitioner would be at liberty to examine whether the information sought by the petitioner is exempt under any of the clauses of Section 8(1) of the Act.

12. The CIC had also awarded cost of ₹153/- to the petitioner, which the petitioner has not been paid as yet. The petitioner is directed to pay the sum alongwith interest at the rate of 12% per annum from 31.10.2012 till the date of payment. Such payment as directed be paid within a period of four weeks from today.

13. The petition is disposed of.

VIBHU BAKHRU, J

SEPTEMBER 07, 2017
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