

\$~51

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

+ W.P.(C) 7177/2017

SAMEER CHITKARA ..... Petitioner

Through: Mr Prateek Tushar Mohanty,  
Advocate.

versus

UNIION OF INDIA ..... Respondent

Through: Mr Rahul Sharma and Mr C.K. Bhatt,  
Advocates for UOI.  
Mr Arun Bhardwaj, CGSC.

**CORAM:**

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

**ORDER**

% **21.08.2017**

**CM No. 29777/2017**

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

**W.P.(C) 7177/2017**

3. The petitioner has filed the present petition, *inter alia*, praying as under:-

- "(iv) quash and set aside the impugned Order dated 01.06.2017 (Annexure : P-1) of the Central Information Commission;
- (v) quash and set aside the impugned Order dated 10.05.2016 of the First Appellate Authority [Annexure-H to the first Document at Annexure : P-2 (Colly)]
- (vi) quash and set aside the impugned Order dated 04.04.2016 of the Central Public Information Officer [Annexure-D to the first Document at Annexure : P-2 (Colly)];

- (vii) direct the Respondent to supply the information sought by the Petitioner by providing all File Noting and Correspondences relating to placement of the Petitioner in the Agreed List for the Years 2012-2013; 2013-2014 and 2014-2015;"

4. The petitioner had applied for an application under Right to Information Act, 2005 (hereafter 'the Act') on 18.03.2016, *inter alia*, requesting that reasons for recommending his name to be placed in the 'Agreed list', year-wise, be provided to him. It is stated that similar applications were also made to other authorities. The petitioner's application was rejected by the CPIO by an order dated 04.04.2016, *inter alia*, explaining that the "Agreed list" is prepared according to the guidelines issued by the Ministry of Home Affairs in consultation with the CBI. It was further explained that an officer's name is included in the Agreed list on the basis of "*the complaint, public perception or suspicion of corruption*" so as to keep a secret watch on the activities of the suspected official and such information being confidential, could not be disclosed.

5. Aggrieved by the said decision denying him the information sought, the petitioner filed an appeal before the First Appellate Authority (FAA) which was also disposed of by an order dated 10.05.2016.

6. The FAA also rejected the petitioner's appeal on the ground that the information sought by the petitioner could not be provided by the west zonal unit as the names of the Group A officers were provided by the Jurisdictional Chief Commissioners and these names were finalised by the Director General of Vigilance at its Headquarters in New Delhi in consultation with CBI. The FAA stated that the respondent merely acts as a

Coordinator and, therefore, is unable to provide the necessary information.

7. It is apparent that the petitioner was denied the information sought by him on the ground that such information was confidential; however, the FAA came to a conclusion that this was not so. The decision of the FAA appears to be, ex facie, erroneous since CPIO had clearly stated that Agreed list was kept secret as the disclosure would defeat the very purpose of the said list.

8. The petitioner preferred a second appeal before the CIC which has been disposed of by the impugned order. By the impugned order, the CIC has observed that the information sought by the petitioner has already been provided to him pursuant to a separate application filed under the Act and the CPIO had clarified the process and the procedure followed for preparation of the Agreed list. Accordingly, the CIC rejected the petitioner's appeal advising the petitioner to approach an appropriate forum.

9. Concededly, the petitioner's name had been put on the Agreed list pursuant to a secret note dated 25.03.2012 issued by the Chief Commissioner, Central Excise Bhawan, Ambawadi, Ahmedabad. The said secret note has been provided to the petitioner and is annexed with the petition as Annexure K (at page 61).

10. This Court finds it difficult to countenance the manner in which the present matter is proceeded ( initially the information has been denied with the petitioner on account of the list being confidential; this ground was not accepted by the FAA and the CIC has ordered that no interference is warranted because the information has already been provided). However,

there is no denying the fact that information sought by the petitioner has been provided to him, albeit, by a different source. Since the information sought by the petitioner has already been provided, no further orders are required to be passed in this petition.

11. The learned counsel for respondent had submitted that the petitioner is no longer looking for the reasons why his name was put on the Agreed list but is only seeking the covering letters under which such information had been sent to other departments. He also seeks certain file notings. The learned counsel appearing for the respondent states that he has received instructions that *"there is no file noting or correspondences relating to inclusion of Shri Sameer Chitkara's name, other than the recommendation received from the jurisdictional Chief Commissioner, which also appears to be in the knowledge of the Applicant."*

12. This controversy is also not required to be addressed in this petition as, admittedly, the petitioner has not made any formal request to the CPIO for the information that he now seeks. Needless to mention that as and when such application is made, the same would be considered by the CPIO in accordance with law. In the event, the petitioner is aggrieved by any order passed by the CPIO, he would be free to avail the remedies as available under the Act.

13. The petition is disposed of. No order as to costs.

**VIBHU BAKHRU, J**

**AUGUST 21, 2017/RK**