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

+ W.P.(C) 4573/2013 & CM No.10503/2013

BORDER ROADS DEVELOPMENT BOARD Petitioner

Through: Mr Anil Soni, CGSC with Mr Nivesh
Sharma, Advocates.

versus

I R MATHUR

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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22.01.2018

1. The petitioner (Border Roads Development Board) has filed the present petition impugning an order dated 13.08.2012 (hereafter 'the impugned order') passed by the Central Information Commission (hereafter 'the CIC'), whereby the petitioner had been directed to grant inspection of the records relating to the Departmental Promotion Committee (DPC) of 2008 pertaining to the consideration of respondent no.2's case for promotion.
2. The limited question that falls for consideration of this Court in this petition is whether any directions for disclosure of such information could be issued to the petitioner under the provisions of the Right to Information Act, 2005 (hereafter 'the Act').
3. The respondent had filed an application dated 09.07.2011 seeking certain information relating to his promotion to the post of Chief Engineer as per the DPC held in October, 2008 and a Review DPC held in December,

2010.

4. The CPIO of the petitioner denied the said request on the ground that the petitioner was exempted from the purview of the Act by virtue of Section 24 of the Act read with Second Schedule of the Act. Aggrieved by the same, the respondent preferred an appeal under Section 19 of the Act before the First Appellate Authority. The same did not meet with any success and was also dismissed by an order dated 05.12.2011.

5. Aggrieved by the aforesaid decision, the respondent preferred a Second Appeal under Section 19(3) of the Act before the CIC. This appeal was allowed by the impugned order. The CIC accepted that the petitioner was exempted from the purview of the Act; however, the CIC was of the view that disclosure of information, which was not related to security issues, was required to be disclosed to the information seeker.

6. The CIC held that since information sought for by the petitioner was related to his promotion and had no connection with security related issues, the same was not exempted from disclosure under the Act.

7. This Court is of the view that the aforesaid reasoning is flawed and the impugned order is not sustainable.

8. Section 24(1) of the Act is set out below:-

“24. Act not to apply to 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.”

9. A plain reading of Section 24 of the Act indicates that the Act is not applicable to the intelligence and security organisations specified in the Second Schedule. However, the first proviso carves out an exception in regard to information pertaining to the allegations of corruption and human rights violations.

10. Admittedly, the petitioner is included in the Second Schedule to the Act at serial number 21 and thus, by virtue of Section 24(1) of the Act, the petitioner has been placed outside the purview of the Act. The information sought for by the respondent cannot be characterized as information pertaining to the *allegations of corruption and human rights violations*; therefore, such information does not fall within the exception carved out under the first proviso to section 24(1) of the Act.

11. In this view, the application filed by the respondent for information under the Act is not maintainable.

12. The impugned order is, accordingly, set aside. The parties are left to bear their own costs.

VIBHU BAKHRU, J

JANUARY 22, 2018/MK