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

+ **W.P.(C) 5017/2018**

PIO, DEPARTMENT OF POSTS

..... Petitioner

Through Mr Jasmeet Singh, CGSC with Mr
Srivats Kaushal, Advocates.

versus

NARENDRA KUMAR

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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03.07.2018

CM No. 19311/2018

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 5017/2018 & CM 19310/2018 (stay)

3. The petitioner (PIO, Department of Posts) has filed the present petition impugning an order dated 28.07.2017 (hereafter 'the impugned order') passed by the Central Information Commission (CIC). By the impugned order, the CIC has allowed the respondent's second appeal preferred under Section 19(3) of the Right to Information Act, 2005 (hereafter 'the RTI Act') against the order dated 30.06.2017 passed by the petitioner.

4. The respondent had preferred an application under the RTI Act on 17.03.2017 seeking certain information pertaining to one Shri Surendra Kumar. It was stated that Sh Surendra Kumar was an employee of the Postal Department and was granted the permission for continuing his studies. It is

stated that he had taken leave for pursuing a degree course and the respondent desired certain information relating to the application submitted by Shri Surendra Kumar and the leave availed by him.

5. The petitioner rejected the aforesaid request of information sought by the respondent on the ground that it was exempt from disclosure by virtue of Section 8 (1)(j) and Section 11 of the RTI Act. Aggrieved by the aforesaid response dated 25.04.2017, the respondent preferred an appeal under Section 19 of the RTI Act before the First Appellate Authority (FAA).

6. The aforesaid appeal was disposed of by FAA by an order dated 15.06.2017 directing the petitioner to reconsider the respondent's application. The petitioner, thereafter, reconsidered the respondent's application and rejected the same by an order dated 30.06.2017. This order was impugned before the CIC.

7. By the impugned order, the CIC has directed the petitioner to provide the information as sought for by the respondent and has also issued further directions for issuing a warning to Mr Surendra Kumar. As far as the question of providing information is concerned, it is stated that the same has been provided. The petitioner's grievance in the present petition is limited to the direction for issuing a warning to Mr Surendra Kumar. The CIC had issued the said direction on the allegation that Surendra Kumar had been harassing the respondent and his mother.

8. The above directions are clearly outside the scope of the RTI Act and there is also no material on record which would establish the said allegation with reasonable certainty. Although, the CIC has passed an order adverse to Shri Surendra Kumar, no notice of any proceedings with regard to the said allegations was ever issued to him.

9. In view of the above, it is apparent that the impugned order to the extent it directs the Postal Department to issue a warning to Shri Surendra Kumar is wholly unsustainable for several reasons. First of all, the CIC lacks jurisdiction to pass such order; secondly the said decision was passed in violation of principles of natural justice; and lastly for the reason that the allegations against Shri Surendra Kumar remain unsubstantiated.

10. In view of the above, the impugned order to the extent that the CIC has issued directions for issuing a warning to Shri Surendra Kumar, is set aside.

11. The above order has been passed without issuing any notice to the respondent for the reason that the principal relief sought by the respondent, under the RTI Act and granted to the respondent by the CIC, has not been interfered with. However, if aggrieved, the respondent has liberty to apply.

12. The petition is disposed of in the above terms. The application is also disposed of.

VIBHU BAKHRU, J

JULY 03, 2018

pkv