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

+ **W.P.(C) 8616/2011 and CM No. 19477/2011**

DEPUTY COMMISSIONER OF POLICE Petitioner

Through: Mr Naushad Ahmed Khan, ASC
(Civil) GNCTD.

ACP Attar Singh, Spl. Cell/SR.

versus

SUBHASH CHANDRA AGARWAL Respondent

Through: Mr T. Sudhaker, Advocate.

AND

+ **W.P.(C) 8618/2011 and CM No. 19485/2011**

DEPUTY COMMISSIONER OF POLICE Petitioner

Through: Mr Naushad Ahmed Khan, ASC
(Civil) GNCTD.

ACP Attar Singh, Spl. Cell/SR.

versus

SUBHASH CHANDRA AGARWAL Respondent

Through: Mr T. Sudhaker, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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15.01.2018

VIBHU BAKHRU, J

1. The petitioner has filed the present petition impugning a common order dated 14.11.2011 (hereafter 'the impugned order') passed by the Central Information Commission (hereafter 'the CIC'), *inter alia*, directing the petitioner to provide the respondent with a copy of the forensic report regarding doctored CDs in the Criminal Case relating to FIR No. 47/2011.

2. The respondent had filed three applications (applications dated

06.05.2011, 16.05.2011 and 30.05.2011) under the Right to Information Act, 2005 (hereafter 'the Act') seeking various queries in connection with or relating to the alleged doctored CDs. The information, as sought by the respondent, was denied by the Central Public Information Officer (CPIO) as being exempt under Section 8(1)(h) of the Act. It was claimed that furnishing of such information would hamper the process of investigation. The appeals preferred by the respondent before the First Appellate Authority under Section 19 of the Act were also rejected.

3. Aggrieved by the same, the respondent preferred the Second Appeal under Section 19(3) of the Act before the CIC, which was allowed by the impugned order.

4. A perusal of the impugned order indicates that the CIC had noted that the information sought was in relation to an FIR (being FIR No. 47 of 2011) alleging that certain CDs had been doctored. The said allegation was investigated by the concerned officer of the petitioner and a final report prepared under section 173 Cr PC was submitted before the CMM, Tis Hazari Courts. The CIC noted that as per the said report, the investigation in the case FIR No. 47 of 2011 was closed and, therefore, the question of such disclosure of information as sought by the respondent, impeding any investigation did not arise.

5. Mr Naushad Ahmed Khan, the learned counsel appearing for the petitioner submitted that merely because the final report under Section 173 Cr.P.C. had been filed before a court does not mean that the investigation cannot be recommenced. He submitted that in the present case, a protest

petition has been filed and the report submitted by the petitioner has not been accepted as yet. He also submitted that the concerned authorities would always have the right to further investigate the matter and, therefore, the information as sought for by the respondent could not be provided to him.

6. Section 8(1)(h) of the Act, which is relied upon by the petitioner, 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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(h) information which would impede the process of investigation or apprehension or prosecution of offenders;”

7. It is seen from the above that Section 8(1)(h) of the Act does not provide a blanket exemption in respect of all information that may be subject matter of any investigation. It only provides exemption from disclosure of such information “*which would impede the process of investigation*” or “*apprehension or prosecution of offenders*”. Although, in the present case, it is claimed on behalf of the petitioner that the petitioner may be called upon to investigate further and that the petitioner also has a right to *suo moto* investigate further, there is no material to indicate that disclosure of such information sought would impede any such investigations.

8. Undisputedly, the information which is the subject matter of investigation can also be disclosed, provided that such disclosure does not

impede such investigation. It is also noted that a considerable period has since elapsed (more than six years) since the date of the impugned order. The learned counsel appearing for the petitioner also submits that no further investigation has been carried out after the closure report dated 24.05.2014 (which was the second closure report filed after the impugned order was passed) was filed with the concerned court.

9. In this view, this Court finds no reason to interfere with the operative part of the impugned order directing disclosure of the information as sought for by the respondent. However, it is clarified that if such information relates to third parties, their consent would be taken before such disclosure. Further, if the third party(ies) do not consent for disclosure of such information, the CPIO would have to take a decision whether the disclosure of such information is required in the larger public interest and follow the procedure as specified under Section 11 of the Act.

10. The petitions and the applications are disposed of with the aforesaid observations.

VIBHU BAKHRU, J

JANUARY 15, 2018
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