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

\+ W.P.(C) 11897/2016 & CM APPL. 46874/2016

Date of decision: 15th November, 2018

FOOD CORPORATION OF INDIA ..... Petitioner

Through: Mr. Manoj, Standing Counsel with Ms. Aparna Sinha, Advocate.

versus

CENTRAL INFORMATION COMMISSIONER & ANR. ..... Respondents

Through: Mr. A.K.Roy, Advocate for R-2.

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (ORAL)

1. Vide the present petition, the petitioner has challenged order dated 24.10.2016 passed by the Central Information Commission whereby the petitioner was directing to provide the complete and categorical information, issue-wise to the respondent No. 2 herein as per his RTI Application in accordance with the provisions of RTI Act, 2005 within 30 days from the date of the receipt of order with intimation to the Commission. It is further directed that if need be, Section 5(4) of the RTI Act 2005 may also be invoked in the matter.
2. Learned counsel appearing on behalf of the petitioner submits that the petitioner is wholly owned by the Union of India, managed and controlled through the Department of Food and Public Distribution under the Ministry of Consumer Affairs, Food and Public Distribution, Government of India. The primary duty of the Corporation is to undertake the purchase, storage, movement transport, distribution and sale of food grains and other foodstuff.

The complainant was working as Assistant manager and Ex-employee of the petitioner, sought personal information regarding some officer against whom the petitioner have issued chargesheet and finally punished for the misconduct committed by the said officer. He submits that since the information sought by the respondent No. 2 is related to some individual and that is personal information therefore that cannot be given to any one until and unless the said person proves that the information is required in the public interest.

3. Counsel for the petitioner has relied upon the case of ***Girish Ramchandra Deshpande Vs. Central Information Commissioner and Ors. (2013) 1 SSC 212*** whereby it is held that the details disclosed by a person in his income tax returns are "personal information" which stand exempted from disclosure under clause (j) of Section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information.
4. Counsel appearing on behalf of the petitioner is also relief upon the case of ***Thalappalam Service Cooperative Bank Limited & Ors. Vs. State of Kerala & Ors. (2013) 16 SCC 82*** whereby the Hon'ble Supreme Court has held that the right to information and right to privacy are, therefore, not absolute rights, both the rights, one of which falls under Article 19(1) (a) and the other under Article 21 of the Constitution of India, can obviously be regulated, restricted and curtailed in the larger public interest. Absolute or uncontrolled individual rights do not and cannot exist in any modern State. Citizens' right to get information is statutorily recognized by the RTI Act, but at the same time limitations are also provided in the Act itself, which is discernible from the Preamble and others provisions of the Act. First of all,

the scope and ambit of the expression "public authority" has been restricted by a statutory definition under Section 2(h) limiting it to the categories mentioned therein which exhaust itself, unless the context otherwise requires. Clause (j) of sub-section A(i) of Section 8 which is 8(1)(j) described that there shall be no obligation to give information any citizen which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.

5. Admittedly, in the present case, respondent No. 2 was working as Assist Manager in Food Corporation of India and retired from the service during 2006. The respondent has been voicing against the rampant corruption prevailing in Food Corporation of India. The respondent No. 2 has been working to ensure that there is certain check in corruption and the correct procedure is followed having transparency in works and to save public money since FCI is working on the basis of subsidy provided by Government of India in Crores.
6. The petitioner Food Corporation of India has a battalion/ team of vigilance officers/ staff right from FCI Head quarter, New Delhi to each Zonal officers/ Regional offices and District officers as well as audit cells at all these places. Yet, there are many cases of corruption which remain unchecked and are not being brought out on surface by these divisions. It is due to the efforts of the Respondent No.2 herein, and the likes, that number of cases of corruption have been unearthed and issues have reached their logical conclusion. Owing to such fact, the Respondent No.2 is subjected to

hindrance/restraint on free flow of information.

7. It is not in dispute that the information is sought qua the officer of the petitioner who has been charge-sheeted and finally punished by the petitioner. The case relied upon by the petitioner is regarding the income-tax returns of individual which has been denied on the ground that the income tax returns are personal information which stand exempted from disclosure under clause 6 of Section 8(1) of the RTI Act, unless involves a larger publications and the Central Public Information Officer or the State Public Information Officer or the appellant authority is satisfied that the larger public interest justifies the disclosure of such information. In the present case, the respondent No. 2 and similarly like minded made various complaints to the petitioner herein and admittedly the number of cases initiated and the inquiry conducted against the various officers including the officer against whom the respondent No. 2 sought information for the reason to answer the public at large that on his complaint proper action has been taken by the petitioner against the corrupt officers. Since, the officer of the petitioner has already charge-sheeted, faced the Department Enquiry and finally punished, then what is the personal information with the petitioner and why the petitioner is not furnishing the details ask by the respondent No.2 herein.

8. It is not denied that there is no corruption in the petitioner department therefore while denying the information it is attempted to pro-long the proper action to be taken against the erroring Officers. The facts brought out and various exchange of documents between the Parties and the agencies/ instrumentalities of the Government including the Parliament and observation made by the Courts, clearly exhibit that the unholy nexus of nefarious activities is known to the world at large. In the present case also, in

the impugned order it is mentioned that during the hearing of the case, it is submitted by respondent No. 2 that the petitioner has provided the similar required information to him on his earlier RTI application after the direction of CIC, however, in the present case, the respondent No. 2 has been discriminated by the petitioner herein.

9. In view of the above discussion, I am of the considered view that such information cannot be hold as a personal information and such information deserves to be given to expose the corrupt person in the public. I find no ground in the present petition.

10. Accordingly, the same is dismissed.

SURESH KUMAR KAIT, J

NOVEMBER 15, 2018
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