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

+ **W.P.(C) 345/2018 and CM No. 1412/2018**

CPIO, DIRECTORATE OF ENFORCEMENT, NEW DELHI
AND ANR. Petitioners

Through: Mr Sanjeev Narula, CGSC with Mr
Amit Mahajan, CGSC and Ms
Mallika, Advocate.

versus

MR. BIMAL KUMAR BHATTACHARYA Respondent

Through: Respondent in person.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **19.02.2018**

1. The petitioner has filed the present petition impugning an order dated 09.10.2017 (hereafter 'the impugned order') passed by the Central Information Commission (hereafter 'the CIC') directing petitioner to provide a broad outcome of the decision in respect of the respondent's complaint made to the Enforcement Directorate (petitioner no.1 authority).
2. The petitioners contend that the aforesaid public authority (petitioner no.1 authority) is excluded from the purview of Right to Information Act, 2005 (hereafter 'the Act') by virtue of Section 24(1) of the Act.
3. The respondent had filed a complaint dated 02.02.2016 with the Enforcement Directorate, Ahmedabad, *inter alia*, alleging violation of the

Foreign Exchange Management Act, 1999 (FEMA) by a company named M/s Thomas Cook (India) Limited. Thereafter, the respondent filed an application dated 21.04.2016 under the Act seeking information with regard to his complaint dated 02.02.2016. The said application was transferred to petitioner no.1 (The Central Public Information Officer of the Directorate of Enforcement, New Delhi). By a communication dated 31.05.2016, petitioner no.1 declined to provide the information as sought for by the respondent on the ground that the Enforcement Directorate was excluded from the scope of the Act by virtue of Section 24(1) of the Act.

4. Aggrieved by the aforesaid decision, the respondent filed an appeal under Section 19(1) of the Act before the First Appellate Authority (FAA). This appeal was dismissed by an order dated 30.06.2016.

5. Aggrieved by the decision of the FAA, the respondent preferred a second appeal under Section 19(3) of the Act before the CIC. The CIC disposed of the appeal by the impugned order, whereby it held that the respondent had every right to receive the information as sought for as it did not relate to any security issues. The CIC, further, held that the disclosure of such information was in larger public interest.

6. Plainly, the impugned order cannot be sustained as it is contrary to the expressed language of Section 24(1) of the Act. Section 24(1) of the Act expressly excludes intelligence and security organizations specified in the Second Schedule of the Act from the purview of the Act. Admittedly, the Directorate of Enforcement is included in the Second Schedule to the Act and, thus, cannot be called upon to disclose information under the provisions

of the Act. The only exception carved out from the exclusionary clause of Section 24(1) of the Act relates to information pertaining to allegations of corruption and human rights violation. Undisputedly, the information sought for by the petitioner cannot be categorized as such information.

7. The aforesaid question has also been considered by a Coordinate Bench of this Court in ***CPIO Intelligence Bureau v. Sanjiv Chaturvedi : 242 (2017) DLT 542***, wherein this Court held that an organisation specified in the Second Schedule of the Act was excluded from the purview of the Act.

8. In view of the above, the petition and the pending application are allowed and the impugned order is set aside. However, it is clarified that this would not preclude the respondent from instituting any proceedings that he may be advised against M/s Thomas Cook (India) Limited, if so, entitled in law.

VIBHU BAKHRU, J

FEBRUARY 19, 2018

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