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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7204/2016, CM No. 29602/2016**
UNION OF INDIA Petitioner

Through: Mr. Jasmeet Singh, CGSC with
Mr. Srivats Kaushal, Adv.

versus

SHIV NARAIN Respondent
Through: Mr. N. Mahabir, Adv. with
Mr. P.C. Arya, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **27.03.2019**

1. The present petition has been filed by the Union of India challenging the order dated February 29, 2016 passed by the CIC whereby the CIC has directed the petitioner to provide complete and categorical information, issue wise, to the respondent herein within a period of 30 days.
2. The respondent herein sought information from the petitioner on the following two issues:-

“1. Whether the report vide letter no. RSVY/CE/CE & PM/55(1) 892 dated 12.02.2013 addressed to Inspector of police, CBI, ACB, Patna by Shri D.S. Kapur CE cum PM RSVY project Zone, CPWD, Patna in connection with the subject referred above was submitted by the CBI before the sanctioning Authority before grant of prosecution sanction.

2. The certified copy of the note sheet of the above mentioned case from the beginning to the issue of prosecution sanction may also be given for which I am ready to pay the

requisite fee.”

3. Learned counsel for the parties agree that in this petition, the Court is concerned with Issue No.2 above. The CIC has, while allowing the appeal filed by the respondent herein relied upon the judgment of this Court in the case of ***S. M. Lamba v. S. C. Gupta and Anr. W.P.(C) 6226/2017 decided on May 04, 2010***, wherein the Court has held that the charge sheet having been filed upon completion of investigation, there can be no apprehension that the disclosure would impede the progress of the investigation. From the issue No.2, it is clear that the respondent herein had sought the note sheet with respect to a case No.RC0232011A0012 pending in the Court of Special Judge, CBI-III, Patna. It may also be stated here, on the last date of hearing it was represented that a similar issue is pending consideration before the Supreme Court.

4. Learned counsel for the respondent has fairly drawn my attention to an order dated February 12, 2019 passed by the Supreme Court in Civil Appeal No. 1632/2019, which is an appeal arising from the orders passed by the Coordinate Bench of this Court in W.P.(C) 2272/2013 dated September 16, 2014 and the Division Bench in LPA 471/2015 dated August 17, 2015, wherein information also includes copy of the note sheet for processing the

decision to refer the said case to Anti Corruption Branch of CBI for investigation. In the said case, the said information was denied to the petitioner Ashok Kumar Sharma. The Coordinate Bench of this Court has directed the petitioner herein to redact all information which may indicate or disclose the identity of the informant and thereafter furnish the same to the petitioner. The said order of the Coordinate Bench of this Court dated September 16, 2014 was upheld by the Division Bench of this Court.

5. The Supreme Court in its order dated February 12, 2019 has held as under:-

Leave granted.

1. This appeal has been filed by the Union of India aggrieved by the order dated 17.08.2015 passed by the High Court of Delhi in LPA NO.471/2015.

2. None appears on behalf of the respondent though served.

3. The appellant-Union of India and others have questioned the legality of the order passed by the High Court dismissing the LPA filed by the appellants holding that no prejudice was to be caused to the appellants in case the document Nos.1, 3 and 4 are supplied after redacting all the information which may disclose the identity of the informant. Document Nos. 2 and 5 have already been supplied.

4. The dispute remains about document Nos.1, 3 and 4 as they were not supplied considering the provisions of Section 8(i)(h) of the Right to Information Act which prohibits disclosure of information connected with ongoing investigations and prosecutions and it was 2 opined that it was source

information that has triggered the anti-corruption proceedings and nothing should be done which affects the proceedings or which compromises the position of the sources of information.

5. In view of the aforesaid reasons employed by the Information Commissioner, we are of the opinion that there was justification in refusing to supply the aforesaid documents. However, as rightly pointed out by learned counsel for the appellant that during the course of trial, if the trial Court feels it appropriate and if a prayer is made, the documents may be called by Court in accordance with law.

6. In view of the aforesaid, we set aside the impugned order in respect of document Nos.1, 3 and 4.

7. With the aforesaid observations, the Civil Appeal stands allowed to the above extent. ”

6. The learned counsel for the respondent submits that the respondent herein shall have the liberty to seek the document, which he has sought under the RTI Act from the learned Trial Court, in terms of the order of the Supreme Court. Suffice it would be to state that it is for the respondent herein to seek appropriate orders from the learned Trial Court.

. In view of the order of the Supreme Court, the order of the CIC dated February 29, 2016 is set aside, the writ petition is allowed.

CM No. 29602/2016 (for stay)

Dismissed as infructuous.

V. KAMESWAR RAO, J

MARCH 27, 2019/ak