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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 8th May, 2023

+ W.P.(C) 4513/2014 and CM APPL. 8989/2014

OFFICER OF THE COMPTROLLER AND AUDITOR GENERAL
OF INDIA Petitioner

Through: Dr. S.S Hooda, Mr. Aayushman
Aeron, Mr. Ashutosh Kumar,
Advocates along with Ms. A Fani
Rao, Deputy Director (Legal) &
CPIO and Mr. Uphar Sharma, Sr.
AO (RTI), (M: 9818670696)

versus

MADHUMITA MONDAL Respondent

Through: None.

**CORAM:
JUSTICE PRATHIBA M. SINGH**

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner- Office of the Comptroller and Auditor General of India seeking the setting aside of order dated 21st April, 2014 passed by the Chief Information Commissioner (*hereinafter 'CIC'*) in respect of point no. 3, 4, 5 and 6 of the RTI application filed by the Respondent and RTI Applicant – Madhumita Mondal. The relevant portion of the order dated 21st April 2014 of the CIC directing the said information to be furnished to the RTI Applicant is extracted as under:

“As for point No. 3, the CPIO shall furnish categorical reply to the Appellant regarding referring the Rhynoplasty treatment of Ms. Gargi Kaul to the Medical Board, whether all medical reports were sent to the Board.

As far as point Nos. 4, 5 & 6, the CPIO shall furnish the complete information to the Appellant.”

3. The RTI Applicant was seeking information relating to one Ms. Gargi Kaul, an IA&AS officer who was working in the office of the CAG. The said RTI application was filed on 12th February, 2013 which was replied to by the Central Public Information Officer (CPIO). Some of the information was revealed to the Applicant. However, in respect of points 2, 3, 5 and 6 exemptions under Section 8(1)(j) of the Right to Information Act, 2005 (RTI Act) were relied upon. Further, Section 11 of the RTI Act was also referred to by the CPIO. The relevant extract of the letter of the CPIO where the said references have been made are extracted as under:-

“2, 3, 5 & 6: The information sought are third party details which are exempt under Section 8 (1) (j) of the RTI Act. Further, the public authorities are not required to furnish replies to the argumentative queries, as brought out in these points. In this connection, your attention is Invited to DOPT circular No. 1/18/2011-IR dated 16.9.2011 and the Hon'ble Supreme Court's observations on RTI Act, which states 'public authorities are not supposed to solve the problems raised by the applicant or to furnish replies to hypothetical questions, or to furnish information which requires drawing of inference and/or making assumptions. In view of this, no information is required to be furnished.

4 : The requisite Information cannot be furnished as the concerned officials had recorded their notes in

confidence as part of their assigned duty. Further in terms of Section 11(1) read this section 2(n) of the RTI Act, the disclosure of these details will not serve any purpose of public interest.”

4. Aggrieved by the letter of the CPIO, the RTI Applicant filed an appeal dated 28th March, 2013 against the said letter of the CPIO which was decided by the Appellate Authority on 15th May, 2013. The Appellate Authority also took the position that the disclosure of the names of the functionaries of the final notings would not serve any public interest. Further, the officials of the Vigilance department who make notes, do so in confidence and the said files are confidential in nature. The relevant extract of the said order of the Appellate Authority is extracted as under:

“4. The disclosure of the names of the lower functionaries of file-notings, as sought by you does to serve any public interest. The officials of vigilance section of this office made the notes in confidence in confidential file to facilitate the decision making process. Your attention is invited to CIC's decision in case of D.P Bhatia V. Custom and Central Excise, New Delhi (appeal No. CIC/AT/A/2010/000757, date of decision 12.11.2010) and to Section 11(1) read with section 2(n) of the RTI Act However, the information is denied.”

5. Thereafter, the RTI-Applicant then filed a second appeal before the CIC specifically stating as under:-

4.	<i>Brief facts leading to the appeal</i>	<i>I want specific information on points 4 (name of officers who prepared the note sheet), 8 (status of complaint against Ms Meera Swarup), of my application which finds no mention in the reply of appellate authority.</i>
5.	<i>Prayer or Relief sought</i>	<i>I want information as explained at no 4 relating to officers who prepared report for CVC in case Ms. Gargi Kaul and at point 8 status of complaint against Ms Meera Swarup.</i>

6. Thus, the grievance of the RTI-Application was restricted to the name of the officials who have prepared the note sheets in respect of the complaint and the details of the officers who have prepared the report for the CVC.

7. However, a perusal of the CIC's order dated 21st April, 2014 would show that the CIC has directed in respect of the point nos. 3, 4, 5 and 6 as under:-

“As for point NO. 3, the CPIO shall furnish categorical reply to the Appellant regarding referring the Rhynoplasty treatment of Ms Gargi Kaul to the Medical Board, whether all medical reports were sent to the Board.

As for point Nos. 4, 5 & 6, the CPIO shall furnish the complete information to the Appellant.”

8. The limited prayer of the Petitioner is that insofar as the direction to give information in respect of points 3, 4, 5 and 6 are concerned, the same is not sustainable in view of the fact that the information sought is personal in nature to the said official, Ms. Gargi Kaul. Further in the appeal itself, the RTI-Applicant has restricted the scope of the appeal and the CIC has gone beyond the scope of the appeal.

9. Ld. counsel relies upon the judgment of the Supreme Court in *SLP (Civil) No. 27734/2012* titled *Girish Ramchandra Deshpande v. Cen. Information Commr. And Ors.* to the effect that the information related to service conditions and service related matters would be covered under the exemptions under Section 8(1)(g) of the Act. He also relies upon the decision of the CIC in *F.No. CIC/AT/A/2009/000617* titled *K.L.Bablani v. Directorate General of Vigilance, Customs & Central Excise* to argue that file noting in the case of vigilance are sensitive matters and ought not to be disclosed. None appears for the RTI-Applicant.

10. A perusal of the second appeal filed shows that the RTI-Applicant has primarily restricted the information sought to point no. 4 i.e. names of officers who prepared the note sheets, status of complaint against Ms Meera Swarup and against the name of officers who have prepared the report of the CVC. Thus, insofar as the directions to disclose information relating to point nos. 3,4,5 and 6 would not be sustainable.

11. Insofar as the information *qua* point no. 4 is concerned, this would be clearly covered by the judgment of the 1d. Supreme Court in *Girish Ramchandra Deshpande (supra)* where the Court held as under:-

“13. We are in agreement with the CIC and the courts below that the details called for by the Petitioner i.e. copies of all memos issued to the third Respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in Clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no

relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual, of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed by the petitioner cannot claim those details as a matter of right.”

12. In any event, a perusal of point no. 3 in the RTI application shows that the same is in respect of medical bills etc which would be third party private information which would not be liable to be disclosed in the manner in which the CIC has directed disclosure.

13. In this view of the matter, the impugned directions insofar as point nos. 3,4,5 and 6 are concerned, the same are set aside.

14. The Petition is allowed in these terms. All pending applications are disposed of.

**PRATHIBA M. SINGH
JUDGE**

MAY 8, 2023
mr/am