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

+ **W.P.(C) 13710/2023**

PRABODH SAXENA

.....Petitioner

Through: Mr. Rajeev Kumar Mishra, Mr.
Apoorva Singh and Ms. Yashna
Ahuja, Advocates.

versus

DEPARTMENT OF PERSONNEL AND TRAINING

.....Respondent

Through: Ms. Arunima Dwivedi, CGSC with
Ms. Pinky Pawar and Mr. Aakash
Pathak, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

16.08.2024

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1. Petitioner filed an RTI application dated 17th January, 2021 seeking following information:

- “1. copy of complete file noting/comments/advice made in DOPT on issue of my prosecution sanction in the case of INX Media*
- 2. copy of complete file correspondence/noting/advice made in DOPT on issue of my prosecution sanction in the case of INX Media”*

2. The said information was denied by Central Public Information Officer¹ observing that *‘In this regard, it is stated that copy of note-sheets, order and correspondence of Prosecution File is denied under Section*

¹ “CPIO”



8(1)(h) of the RTI Act, 2005.’ In the first and second appeal, the said decision was upheld.

3. In the second appeal under section 19 of the Act, the Central Information Commission,² through the impugned order dated 8th June, 2022³, observed as follows:

“Decision:

The Commission has perused the facts on record and observes that concededly the instant case is squarely covered by the decision of this bench in File No. CIC/CVCOM/A/2020/679219 decided on 17.12.2021 with respect to the same set of queries posed to CVC vide RTI Application dated 16.01.2020. The relevant excerpt of the Decision in earlier case of CVC reproduced hereunder:

“The Commission upon a detailed scrutiny of the facts on record and after considering the submissions of the parties during the hearing observes that the CPIO has suitably discharged the onus of justifying the denial of the information under Section 8(1)(h) of the RTI Act as disclosure of the correspondences/file noting(s) which includes the investigation report of CBI during the pendency of the case with the Court will attract the element of pending trial as espoused under the said exemption clause.....”

In view of the foregoing, the Commission upholds the denial of the information under Section 8(1)(h) of the RTI Act in the instant case and finds no scope of intervention in the FAA’s order.

The appeal is disposed of accordingly.”

4. Counsel for Petitioner states that his request for information pertains to his prosecution sanction only. The sole ground for denying the information by Respondents, as is evident from order of CPIO, first appellate authority as well as the CIC, is premised on Section 8(1)(h) of the Right to Information Act, 2005,⁴ which reads as follows:

² “CIC”

³ “Impugned decision”

⁴ “the Act”



(h) *information which would impede the process of investigation or apprehension or prosecution of offenders;”*

8. In view of the above, the present petition is allowed.

⁵ Decision dated 22nd April, 2015 in W.P.(C) 3616/2012



9. Disposed of.

AUGUST 16, 2024
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SANJEEV NARULA, J