2024:DHC:5094

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

Date of decision: 09th JULY, 2024

IN THE MATTER OF:

\+ **W.P.(C) 7294/2010 & CM APPLs. 46370/2023, 46371/2023, 63117/2023, 63118/2023, 18562/2024, 18563/2024 & 28185/2024**

UOI AND ANR. ..... Petitioners

Through: Ms. Pratima N. Lakra, CGSC with Mr. Chandan Prajapati, Advocates.

versus

RAKESH K GUPTA ..... Respondent

Through: Respondent-in-person

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. Union of India has approached this Court challenging the Order dated 30.10.2009, passed by the Central Information Commission (CIC) directing the Union of India to provide the information as sought for by the Petitioner. In the impugned Order the CIC has succinctly captured the information sought for by the Respondent herein and the reply given by the CPIO and the same reads as under:

S.No.	Information Sought	Reply of PIO
1.	Request for facilitating inspection of all vigilance complaints filed by the appellant including CVC	The complaints filed by the appellant are being dealt with in the File No DGIT (V)/NZ/Com/127/05. The

	references. (CVC Complaint no 89/5 dated 4/5/2005, 194/04 dated 23/11/2004, 202/05 dated 13/10/2005)	complaints have been investigated and closed with the approval of Central Vigilance Commission order No. OM No.005/ITX/103 dated 20/03/2008. The other complaints are under process in file no DGIT (V)/NZ/Con/60/04 and therefore inspection of the same cannot be allowed under section 8(1) (h). The information is exempt from disclosure under section 8(1)(e) of the RTI Act, 2006 since it contains information on various issues which has been received in confidence from various authorities like CBI, CVC etc. Further the information may expose officials against whom vigilance inquiries were ordered and which are pending. Any inspection etc. of such records

		would cause unwarranted invasion of the privacy of the individual as long as charges against the officials are proved and section 8(1)(1) of the RTI Act gets invoked.
2.	The copy of documents mentioned at the time of inspection.	The complaints filed by the appellant are being dealt with in the File No DGIT (V)/NZ/Com/127/05. The complaints have been investigated and closed with the approval of Central Vigilance Commission order No. OM No 005/ITX/103 dated 20/03/2008. The other complaints are under process in file no DGIT (V)/NZ/Con/60/04 and therefore inspection of the same cannot be allowed under section 8(1) (h).
3.	Request for facilitating Inspection of register maintained by DGIT Vigilance office.	The information is exempt from disclosure under section 8(1)(e) of the RTI Act, 2006 since it contains information on various

		issues which has been received in confidence from various authorities like CBI, CVC etc. Further the information may expose officials against whom vigilance inquiries were ordered and which are pending. Any inspection etc. of such records would cause unwarranted invasion of the privacy of the individual as long as charges against the officials are proved and section 8(1)(J) of the RTI Act gets invoked.
4.	The copy of file notings in cases no 89/5 dated 4/5/2005, 194/04 dated 23/11/2004, 202/05 dated 13/10/2005.	The complaints filed by the appellant are being dealt with in the File No DGIT (V)/NZ/Com/127/05. The complaints have been investigated and closed with the approval of Central Vigilance Commission order no OM No.005/ITX/103 dated 20/03/2008.

		The other complaints are under process in file no DGIT (V)/NZ/Con/60/04 and therefore inspection of the same cannot be allowed under section 8(1) (h) The other complaints are under process in file no DGIT (V)/NZ/Con/60/04 and therefore inspection of the same cannot be allowed under section 8(1) (h) of RTI.
5.	The list of officers along with their phone numbers, email address and designations, responsible for the cases no 89/5 dated 4/5/2005, 194/04 dated 23/11/2004, 202/05 dated 13/10/2005	The decisions on vigilance matters in case of Group A officers are taken by a chain of officers and in the office the authority concerned is DGIT (Vig) whose details have been mentioned.
6.	The list of each complaint filed by the general public against the officers of the department during the period	The information is exempt from disclosure under section 8(1)(e) of the RTI Act, 2006 since it contains information on various issues which has been received

	1/1/2000 to 31/12/2008.	in confidence from various authorities like CBI, CVC etc. Further the information may expose officials against whom vigilance inquiries were ordered and which are pending. Any inspection etc. of such records would cause unwarranted invasion of the privacy of the individual as long as charges against the officials are proved and section 8(1)(1) of the RTI Act gets invoked.
7.	Request for facilitating the inspection of all records in the above said case.	

2. Dissatisfied by the reply given by the CPIO, the Respondent herein filed an appeal before the first Appellate Authority which affirmed the Order of the Petitioner. Thereafter, the Respondent herein filed the second appeal before the CIC. In the Second Appeal, the Petitioner herein took the plea that the information sought by the Respondent cannot be provided as the same is exempted under Section 8(1) (e) (h) & (j) of the Right to Information Act, 2005 and, therefore, the same has been denied by the CPIO. The CIC has allowed the appeal of the Respondent herein and has directed the Union of India to provide the information sought for by the Respondent herein. It is this Order which has been challenged by the Petitioner in the present Writ Petition.

3. The Statement of Objects and Reasons of the Right to Information Act states that the Act was brought in to ensure greater and more effective excess to information. The object of the Act is to ensure maximum disclosure and to provide effective mechanism for access to information and disclosure by authorities. The object of the RTI Act is to harmonise the conflicting public interests, that is, ensuring transparency to bring in accountability and containing corruption on the one hand, and at the same time ensure that the revelation of information, in actual practice, does not harm or adversely affect other public interests which include efficient functioning of the governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information, on the other hand (refer: ICAI v. Shaunak H. Satya, **(2011) 8 SCC 781**). Keeping the said object in mind, this Court has no hesitation to hold that the entire information sought for by the Respondent in S.No.1, 2 & 4 of the abovementioned table can be provided to the Respondent in totality. With regard to the request of the Respondent herein for facilitating Inspection of register maintained by DGIT Vigilance office, this Court is of the opinion that such part of the register which deals with the complaint given by the Respondent can be provided for to the Respondent herein after redacting all other information as the Respondent has full right to get information regarding his complaint. The contention raised by the learned Counsel for the Union of India that since some complaints were investigated by the CBI Court, the information sought for by the Respondent herein cannot be provided cannot be accepted for the reason that when a pointed question was asked as to whether any investigation is still pending, the answer was in

negative. In view of the fact that investigation has been concluded, this Court is of the opinion that the inspection of register insofar as it relates to the complaint given by the Respondent can be provided to the Respondent. It is well settled that if enquiry by CBI is completed then there is no impediment in permitting inspection of documents or providing the notings on the files to the persons who seek information.

4. As far as information sought for by the Respondent at S.No.5, 6 & 7 of the abovementioned table is concerned, this Court is of the opinion that the Respondent is not entitled to information regarding complaints filed by other members of the public as the same involves third party information. The Apex Court in Girish Ramchandra Deshpande v. Central Information Commr., **(2013) 1 SCC 212**, has held as under:

> "*11. The petitioner herein sought for copies of all memos, show-cause notices and censure/punishment awarded to the third respondent from his employer and also details viz. movable and immovable properties and also the details of his investments, lending and borrowing from banks and other financial institutions. Further, he has also sought for the details of gifts stated to have been accepted by the third respondent, his family members and friends and relatives at the marriage of his son. The information mostly sought for finds a place in the income tax returns of the third respondent. The question that has come up for consideration is: whether the abovementioned information sought for qualifies to be "personal information" as defined in clause (j) of Section 8(1) of the RTI Act.*
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> *12. 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 organisation 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 or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

13. 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.

14. The petitioner in the instant case has not made a bona fide public interest in seeking information, the disclosure of such information would cause unwarranted invasion of privacy of the individual under Section 8(1)(j) of the RTI Act."

5. The same analogy would apply to the facts of the present case as well. The Respondent herein is not entitled to the copies of the complaints

filed against Officers even though they may be the very same officers against whom the Respondent has also filed complaints. Similarly, the Respondent would also not be entitled for inspection of the records in cases filed by any member of the public other than the Respondent himself. Resultantly, this Court is of the opinion that the Respondent can be provided information sought for in S.No.1, 2 & 4 and he cannot be provided the information sought for in S.No.5, 6 & 7 and that part of the information in S.No.3 which does not pertain to Respondent.

6. With these observations, the Writ Petition is disposed of along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

JULY 09, 2024
Rahul