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

+ **W.P.(C) 7227/2016**

DEPARTMENT OF HEALTH & FAMILY WELFARE, GNCTD

.....Petitioner

Through: Mr. Anuj Aggarwal, ASC with Mr.
Siddhant Dutt, Advocate.

versus

DR. AVINASH KUMAR

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **11.09.2024**

1. The Respondent, Dr. Avinash Kumar, filed two complaints¹ through the Public Grievance Monitoring System (PGMS), pertaining to harassment and lack of action taken pursuant to his allegations of corruption against officials of the Aruna Asaf Ali Government Hospital. Thereafter, he filed an application dated 20th April, 2015 under the Right to Information (RTI) Act, 2005², requesting the grievance redressal reports for the two aforementioned complaints. The Petitioner replied to the said RTI application providing the following information:

¹ Bearing Nos. 201414464 and 201415046

² "RTI Act"



S.No.	Information Sought	Information provided
1	Complainant has sought justification for his transfer from AAAGH to BJRM Hospital.	After the approval of Chief Secretary, GNCT of Delhi Dr. Avinash Kumar was transferred from AAAGH to BJRM.
2	Corruption related complaints on various issues in AAAGH.	i) Two inquiries have been conducted on the various issues raised by Dr. Avinash Kumar. ii) A letter dated 30.4.15 sent to M.S., AAAGH for lodging FIR for missing files related to purchase. iii) Show Cause Notices issued to : Dr. Promila Gupta, the then MS of AAAGH, Dr. Amit Kumar Sharma, the then surgical store incharge of AAAGH, Dr. Surender Singh, CMO(NFSG), the then purchase officer of AAAGH and Dr. S.B. Shrivastava, the then MS of AAAGH vide letters dated 30.4.15.

2. This response was challenged by the Respondent before the First Appellate Authority (FAA), pursuant to which two orders were passed. On 16th June, 2015, the FAA directed the PIO of the Petitioner to provide copy of enquiry reports as soon as it is available to them. Then, on 3rd August, 2015, FAA directed as follows: *“The information has asked for and as is liable to be given under RTI Act, 2005 may be provided to the appellant within 15 days of the receipt of the Order.”* [sic.] In furtherance of this order, the Petitioner filed a compliance report dated 8th September, 2015, however, unsatisfied with the response received, the Respondent escalated the matter in appeal before the Central Information Commission (CIC). In such circumstances, the CIC passed the impugned order dated 29th February,



2016, directing the PIO of the Petitioner to provide copy of the inquiry reports made in relation to the alleged corruption activity at the hospital.

3. The Petitioner contended that the directions issued by the CIC through the impugned order exceeded the scope of the original RTI Application. Moreover, it was emphasised that since the reports sought pertained to an ongoing inquiry, such information would be exempted under Section 8(1)(h) of the RTI Act.

4. The Petitioner's primary objection to disclosing the requested information is based on Section 8(1)(h) of the RTI Act, which exempts disclosure of information that would impede the process of investigation or apprehension or prosecution of offenders. However, it is a settled principle that the mere pendency of an inquiry or investigation does not automatically justify withholding information under this provision. The authority invoking this exemption must demonstrate a reasonable likelihood that such disclosure would 'impede' the ongoing proceedings. In the present case, the Petitioner has not provided any specific or cogent reasons to establish how the disclosure of the information sought would have adversely affected the inquiry. Moreover, the counsel for Petitioner has today stated that the inquiry has now been concluded. Thus, without further entering into the controversy and examining whether the Petitioner has met the evidentiary burden mandated by this provision, the Court is of the opinion that the Petitioner's reliance on Section 8(1)(h) of the RTI Act is of no avail. Accordingly, the Court finds no reason for the Respondent to be denied the information requested through their RTI Application.

5. In view of the above, the Court finds no infirmity in the impugned orders passed by the CIC. Accordingly, the present petition is dismissed,



along with pending application.

SEPTEMBER 11, 2024
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SANJEEV NARULA, J