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

+ **W.P.(C) 13621/2018, CM APPL. 53063/2018**

FOOD CORPORATION OF INDIA

.....Petitioner

Through: Mr. Om Prakash, Advocate.

versus

SHRI K C SHARMA

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

12.09.2024

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1. The Respondent- Shri K C Sharma is a former employee of the Petitioner Corporation. Disciplinary proceedings were initiated against the Respondent which resulted into penalty of reduction in time scale of pay by 3 stages on the date of superannuation. The Respondent after exhausting his appeal remedies, filed an RTI application dated 28th February, 2017 under the Right to Information Act, 2005,¹ seeking several documents and information in relation to the said disciplinary proceedings. A copy of the RTI Application is reproduced herein below for reference:

¹ "RTI Act"



- i) Photocopy of the "GOVT. NOTIFICATION" empowered FCI Authorities to enhance/addition the 'CHARGES' contrary to the C/sheet Dated 17-09-2009 through Appellate ORDER Dated 24-01-2017 bearing file No.A & R/5(56)/2010/160 passed by Worthy Manager Director, FOOD CORP, New Delhi, after expiry of the period about 8-Years.
- ii) Disclose the correct & complete Amount of Losses/Damages with evidential Documents, suffered by FCI for which appeal by order dated 24-01-2017 has been rejected including N/Sheet on which an AMOUNT OF LOSSES/DAMAGED were determined together with Order-sheet on which FCI Authorities ordered to kept away from record.
- iii) Photocopy of the N/sheet on which "brief statement dated 28-11-2016 submitted by appellant" was apprised to Worthy Managing Director, FOODCORP, prior to pass impugned order Dated 24-01-2017 so conveyed to the applicant.
- iv) Photocopy of the N/sheet on which Hon'ble Managing Director, directed E.D. (VIG.) "TO conceal the ANN-2, ANN-8 having page No.35-38 & ANN-10 specially its back page of the Appeal CONFIRMING THE AWARENESS OF APPELLANT ABOUT SO - CALLED LETTER Dated 4-3-2009 INCLUDING N/sheet on which the "brief statement so referred dated 28-11-2016" was detailed against which impugned Appellate order dated 24-01-2017 Passed by worthy CMD, FOODCORP.

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v) Photocopy of the acknowledgement obtained from the undersigned AFTER serve the Memorandum No.Vig.4(5291)/LDH/PB/09/MNR/2115 Dated 23-01-2010 by General manager Punjab, so referred on the STATEMENT OF IMPUTATION OF MISCONDUCT relate to ANN-11 of the instant Appeal AND also confirm the correct Name & designation of the official, so placed, at Sl. No.1 on the aforesaid MEMORANDUM & also produced the Letter No.VIG.4(5291)/PB/LDH/99/880 Dt. 05-01-2012 its relevant with endorsement such GM® letter to the CMD, FOODCORP AS WELL AS Chairman, CVC, govt. of India, Satarkta Bhawan – New Delhi, WHICH PROVE THE SERIOUS CONCEALMENT OF EVIDENCE IN THE HQrs., COMMITTED OPEN ORGANISED CORRUPTION FROM TOP TO BOTTOM UNDER THE control of then General Manager (VIG.), FCI, Hqrs., New.

2. The CPIO replied on 12th April, 2017, declining the information sought by the Respondent. The matter was carried further in first appeal, whereby the first appellate authority on 27th June, 2017, passed an order directing part disclosure of the information sought, specifically, point 4 of the RTI Application. The second appeal filed by the Respondent has been decided through the order dated 17th September, 2018,² by the Central Information Commission,³ which reads as follows:

“On perusal of the relevant case record, it was noted by the Commission that proper replies was not provided to the appellant on point

² “Impugned Order”

³ “CIC”



nos. 1 & 5 of the said RTI application. A revised and clear reply should be provided on these points. On point nos. 2 and 3 of the above stated RTI application, the reply provided is just and proper. On point no 4, if the information sought for pertains to a third party, the same should be provided after following due procedure as envisaged u/s 10 of the RTI Act, i.e. after masking names, designations and other identification details of third parties involved in the present case. The sought for information on point nos. 6-10 of the said application is not covered-u/s 2(f) of the RTI Act and hence the same is non disclosable. The replies provided both by the respondent CPIO and by the first appellate authority on these point are found just, proper and comprehensive by the Commission.

Be that as it may, since no desired information was provided to the appellant on point nos. 1, 4 & 5 of the said RTI application, the respondent CPIO is directed to provide revised point wise reply as discussed during the hearing as above, complete in all respects to the appellant as available on record in the form of certified true copies of the documents sought e.g, note sheets, letters, correspondences, e-mails etc. (legible copies), free of charge u/s 7(6) of the RTI Act within 15 days of the receipt of the order. For this purpose, the concerned CPIO/PIO, can take assistance of any other office/department u/s 5(4) of the RTI Act.

The respondent CPIO is further directed to send a report containing the copy of the revised reply and the date of despatch of the same to the RTI appellant within 07 days thereafter to the Commission for record.

With the above observation/direction/warning, the appeal is disposed of.

Copies of the order be sent to the concerned parties free of cost.”

3. The Petitioner, Food Corporation of India,⁴ assails the aforementioned order contending that the information sought by the Petitioner is exempted under Section (8)(1)(e), (g),(h) and (j) of the Act. It is pertinent to note that the Petitioner has complied in part with the direction passed by the CIC, in the Impugned order, by providing revised information to Respondent *qua* the information sought at point no. 1,4 and 5 *vide* letter Dated 22nd October, 2018. The Petitioner thus submits that the limited challenge in the present petition is to the Impugned order in so far as it extends to providing the ‘note sheets’ to Respondent as desired by him. It is pointed out that a similar order



directing disclosure of such information, was assailed by FCI before this Court in W.P.(C) 10455/2018.⁵ In that case, the Court held that the information sought, which included note sheets of a vigilance case concerning a third party, is exempt from disclosure. The relevant portion of the order reads as follows:

“1. This hearing has been done through hybrid mode.

2. None appeared for the Respondent today and even on the last four hearings.

3. The present petition has been filed by the Food Corporation of India (hereinafter ‘FCI’) challenging the impugned order bearing File No. CIC/FCIND/A/2017/118991 dated 21st June 2018 titled ‘Parminder Singh v. The CPIO/DGM(VIG)’ whereby the Central Information Commission (hereinafter ‘CIC’) has directed partial disclosure of the note sheets.

4. The application of the RTI Applicant, the Respondent in this petition, was filed on 6th January, 2017 seeking the following information:

“1. Attested copies of complete note sheets of the vigilance case no. vig.4(14)/2015/WZ/MP/1689/1129 dated 08.07.2015

2. Attested copies of complete note sheets of the vigilance case no. vig.4(36)/2012-PB dated 08.07.2015 dated 08.07.2015”

5. The Public Information Officer (‘PIO’) had vide its reply dated 27th January, 2017 refused the disclosure of the information on the ground that note sheets are secret documents. On 7th March, 2017, the first appeal was rejected on the ground that the documents and information were confidential in nature. However, CIC has directed disclosure of these documents as extracted above.

6. Mr. Om Prakash, Id. Counsel appearing on behalf of the FCI submits that the matter is squarely covered by the judgment of the Supreme Court in ‘Girish Ramchandra Deshpande v. Central Information Commissioner and Ors.’ (2013) 1 SCC 2012 wherein it has been held that service records relating to third parties would be exempted under Section 8(1)(j) as the same constitutes personal information. He also relies upon the judgment of this Court in ‘Union Public Service Commission v. R.K. Jain’ 2013 (196)

⁴ “FCI”

⁵ *Food Corporation of India v. Shri Parminder Singh*



DLT 170.

7. The fact that the information sought also included note sheets of the vigilance case of a third party is not disputed in the present case. In view thereof and in view of the settled legal position, the CIC's order is not sustainable and the same is set aside.

8. The petition is allowed in the above terms. All pending applications are also disposed of.”

[Emphasis Supplied]

4. It is pointed out that the Impugned order of the CIC is contrary to the view taken by this Court in *Food Corporation of India v. Shri Parminder Singh*⁶ as well as *Girish Ramchandra Deshpande v. Central Information Commissioner and Ors.*⁷ and *Union Public Service Commission v. R.K. Jain*.⁸

5. The Respondent has not appeared consistently, with their appearance being noted on only a few occasions. Nevertheless, considering the facts of the case and the issue raised by the Petitioner, which is already covered by the decisions referred to above, the Impugned Order, passed by the Central Information Commission, in so far as it directs the Petitioner to provide note sheets to the Respondent, is not sustainable and is, therefore, set aside.

6. Accordingly, the petition is allowed in the above terms and pending application is also disposed of.

SANJEEV NARULA, J

SEPTEMBER 12, 2024

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⁶ Order dated 8th February, 2023 in W.P.(C) 10455/2018

⁷ (2013) 1 SCC 212

⁸ 2013 (196) DLT 170