2024:DHC:776

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

Date of decision: 30th JANUARY, 2024

IN THE MATTER OF:

\+ **W.P.(C) 2833/2020 & CM APPLs. 9857/2020, 44582/2022**

CENTRAL PUBLIC INFORMATION OFFICER (CPIO) CENTRAL BUREAU OF INVESTIGATION ..... Petitioner

Through: Mr. Anupam S. Sharma, SPP-CBI with Mr. Prakarsh Airan, Mr. Abhishek Batra, Mr. Ripu Daman Sharma, Mr. Vashisht Rao, Mr. Syamantak Modgill and Ms. Harpreet Kalsi, Advocates.

versus

SANJEEV CHATURVEDI ..... Respondent

Through: Mr. Manoj Khanna, Ms. Shweta Sharma and Mr. Abhishek Chandel, Advocates.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Central Bureau of Investigation (CBI) has approached this Court challenging an Order dated 25.11.2019 passed by the Central Information Commission (CIC) allowing an appeal filed by the Respondent herein and directing the CPIO, Central Bureau of Investigation, Anti-Corruption Branch, Delhi to give the following information as sought by the Petitioner:-

> *"I. Kindly provide me certified copy of all the file noting/ documents/ correspondences related to investigation done by CBI on corruption complaint dated 03.07.2014, bearing No. F.17/NVC/2014(356),*

marked to Sh. Nitish Mishra, SP(CBI), from the then CVO of AIIMS, New Delhi, regarding corruption in purchase in trauma centre, AIIMS, New Delhi.

Kindly provide me certified copies related to efforts made by CBI to locate Annexure-II of said complaint and statements if any, taken from Sh. T R Mahajan, Assistant Store Officer, regarding supplier firm owned by his son and daughter-in-law.

II. Kindly provide me codified copy of all the file noting/documents/correspondences related to investigation done by CBI in PE -DAI-2014-A-0004, registered by ACB, New Delhi, in January, 2014, naming Mr. Vineet Chaudhary and Mr. B S Anand, including the documents related to investigation done by CBI into transaction of their properties, as mentioned in the said P.E.

III. Kindly provide me certified copy of all the file noting/ documents/ correspondences into investigation done by CBI into corruption complaint dated 19.05.2014, received from Vigilance Cell of AIIMS, New Delhi regarding corruption in surgery department of AIIMS, New Delhi and about which a half-baked report was sent by CBI to Union Health Ministry on 17.12.2014.

IV. Kindly provide me certified copy of all the file noting/ documents/ correspondences on complaint dated 22.01.2016 addressed to Sh. Anil Sinha, IPS, the then Director(CBI) on Subject-complaint against shoddy investigation by CBI in CO-79/2014/ACP/DL1/12500; CO/ DLI/ ACP/ Complaint/ 2014/48/16776;P-DAI-2014-A-0004, ACP, Delhi."

2. Material on record indicates that the Respondent in his capacity as a Chief Vigilance Officer (CVO) at AIIMS had sent a report regarding corrupt practices in the purchase of fogging solution and disinfectant for the Medical

Store, JPNA Trauma Centre, AIIMS. According to the Respondent, no action has been taken by the CBI on the information which was given by the Respondent, and, therefore, the Respondent had approached the CPIO, CBI. The said information was denied on the ground that the CBI is an organization which is specified in the Second Schedule to the RTI Act read with Section 24 of the Act, and, therefore, the RTI Act does not apply to the Petitioner/Organization. The Petitioner thereafter filed an appeal before the Appellate Authority and the Appellate Authority also rejected the appeal of the Respondent on the very same ground which led to the Second Appeal. Before the Central Information Commission (CIC), the Respondent threin being the Petitioner in the present writ petition stated that the investigation in the matter was already completed and the Ministry of Health and Family Welfare shared the relevant information of the case with the Respondent.

3. The Petitioner herein, who is the Respondent before the CIC, raised the plea that since the name of the CBI figures in the Second Schedule to the RTI Act, the provisions of the RTI Act are not applicable to the CBI.

4. The CIC placed reliance on the judgment dated 23.08.2017 passed by this Court in CPIO, Intelligence Bureau v. Sanjiv Chaturvedi, **W.P.(C) 5521/2016,** wherein a Coordinate Bench of this Court had held that the proviso to Section 24 of the RTI Act permits information pertaining to allegations of corruption and human rights violations be supplied to a person seeking information on these grounds and that there is no blanket ban on disclosing such information.

5. It is contended by the Petitioner that Section 24 of the RTI Act acts as a complete bar and CBI is exempt from the provisions of the RTI Act. It is also stated that the proviso is not applicable insofar as the CBI is concerned,

since CBI discharges functions under the Delhi Special Police Establishments Act, 1946 and the CBI cannot reveal the investigations done by it under the RTI Act. It is stated that intelligence plays a very vital role in the investigation conducted by the CBI in matters pertaining to offences of corruption and many of the important and sensitive cases are registered on the basis of intelligence inputs, and, therefore, investigation conducted by the CBI cannot be disclosed to the Respondent herein.

6. Notice was issued on 29.07.2022 and stay was granted by this Court.

7. Mr. Anupam S Sharma, learned SPP for the Petitioner/CBI, reiterated the contentions raised in the writ petition.

8. *Per contra,* learned Counsel for the Respondent places reliance on the judgment of this Court in CPIO, Intelligence Bureau v. Sanjiv Chaturvedi, **2017 SCC OnLine Del 10084**.

9. Heard learned Counsel for the parties and perused the material on record.

10. Section 24 of the RTI Act reads as under:-

> *"**24**. Act not to apply to certain organizations.—*
>
> *(1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government: Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section: Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in Section 7, such*

information shall be provided within forty-five days from the date of the receipt of request.

(2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or omitting therefrom any organisation already specified therein and on the publication of such notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.

(4) Nothing contained in this Act shall apply to such intelligence and security organisations, being organisations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify: Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section: Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and, notwithstanding anything contained in Section 7, such information shall be provided within forty-five days from the date of the receipt of request.

(5) Every notification issued under sub-section (4) shall be laid before the State Legislature."

11. A perusal of Section 24 of the RTI Act shows that even though the name of the organization finds mention in the Second Schedule to the RTI Act, it does not mean that the entire Act is not applicable to such

organizations. The proviso to Section 24 permits information pertaining to allegations of corruption and human rights violation to be made available to the applicant and the same cannot be included in the exception provided to organizations mentioned in the Second Schedule of the RTI Act. As rightly pointed out by the CIC, a Coordinate Bench of this Court *vide* judgment dated 23.08.2017 in CPIO, Intelligence Bureau v. Sanjiv Chaturvedi, **2017 SCC OnLine Del 10084,** has observed as under:-

> *"27. Section 24 (1) inter alia make the Act inapplicable to intelligence and security organizations, established by the Central Government, specified in the Second Schedule and further excludes any information furnished by such organisations to the Central Government from being liable to be disclosed. However, an exception is carved out to the exclusion clause with respect to information covered by the proviso. The proviso stipulates that if the information pertains to allegations of corruption and human rights violations, it shall not be excluded under this sub-section.*
>
> *28. A distinction is drawn by the proviso between intelligence and security organizations and the information furnished by such organisation to the Central Government The exception carved out by the proviso to the exclusion clause is only with regard to the information and not with regard to the intelligence and security organizations.*
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> ***29. The plain reading of the proviso shows that the exclusion is applicable with regard to any information. The term "any information" would include within its ambit all kinds of information. The proviso becomes applicable if the information pertains to allegations of corruption and human rights violation. The proviso is not qualified and conditional on the information being related to the***

exempt intelligence and security organizations. If the information sought, furnished by the exempt intelligence and security organizations, pertains to allegations of corruption and human rights violation, it would be exempt from the exclusion clause.

30. The proviso "Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section" has to be read in the light of the preceding phrase "or any information furnished by such organisations to that Government ".

31. When read together, the only conclusion that can be drawn is that, if the information sought pertains to allegation of corruption and human right violation, it would be exempt from the exclusion clause, irrespective of the fact that the information pertains to the exempt intelligence and security organizations or not or pertains to an Officer of the Intelligence Bureau or not."

(emphasis supplied)

12. Another Coordinate Bench of this Court in Ehtesham Qutubuddin Siddique v. CPIO, Intelligence Bureau, **2019 SCC OnLine Del 6524**, wherein this Court has observed as under:-

*"**22**. In addition to the above, it is also necessary to observe that merely because such information regarding allegations of corruption and human rights violation is not excluded from the purview of Section 24(1) of the Act, does not necessarily mean that the said information is require to be disclosed. The only import of second proviso to Section 24(1) is that information relating to corruption and human rights violation would fall within the scope of the RTI Act. Section 8 of the RTI Act provides for certain exemptions from disclosure of information and the said provisions would be equally applicable to information*

pertaining to allegations of corruption and human rights violation. Thus, the concerned authorities would have to examine whether the information sought for by the petitioner is otherwise exempt from such disclosure by virtue of Section 8 of the RTI Act."

13. This Court in Union of India v. Central Information Commission & Anr., **LPA No. 734/2018** while relying on Esab Limited v Special Director of Enforcement, **2011 SCC Online Del 1212** has also discussed whether information as sought for is excluded from the purview of the RTI Act in view of Section 24 of the RTI Act. The Division Bench rejected the argument that Section 24 of the RTI Act is a complete bar on disclosure of information under the RTI Act by the organizations mentioned under Second Schedule of the Act and held that any information can be granted by such organizations if the information sought pertains to the allegation of corruption or violation of human rights.

14. There is nothing on record other than stating that investigations involve a sensitive process and providing information regarding inquiries/investigation will lead to public persons interfering with the matters which are within the province of the CBI. The law imposes on the Petitioner the duty to inquire if such disclosure are permitted to public at large, then it would result in extending powers to the general public which even the judiciary does not possess.

15. In this case, the Petitioner has sought for information regarding his complaint alleging the corruption in purchase of fogging solution and disinfectant in the store of JPNA trauma centre in AIIMS. This is not a case where sensitive information has been collected by the CBI and the disclosure of which would be prejudicial for the officers involved. This is

also not a case where information is so sensitive that it cannot be shared with the public at large. The very purpose of the proviso is to permit information pertaining to allegations of corruption and human rights violations to be provided to the applicant. The Petitioner has levelled allegations regarding corruption in purchase of cleaner disinfectants and fogging solution at JPNA Trauma Centre, AIIMS, New Delhi and this case, therefore, does not deal with any kind of sensitive investigation.

16. In the absence of anything on record to demonstrate that investigation regarding malpractices in purchase of cleaner disinfectants and fogging solution in JPNA Trauma Centre, AIIMS, New Delhi will expose the officers and other persons involved in the investigation which can endanger their life or would jeopardize any other serious investigation, this Court is not in a position to accept the argument of the CBI in the facts of this case. However, in appropriate cases, it is always open for the CBI to establish that the information sought for regarding a particular investigation is sensitive in nature and on considering the nature of sensitivity involved and keeping in mind the object of Section 24 of the RTI Act and keeping in mind the purpose for which Section 24 was brought in the statute book, it is always open for the CPIO to refuse grant of such information.

17. The writ petition is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

JANUARY 30, 2024
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