CENTRAL INFORMATION COMMISSION

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Information Commissioner

CIC/SA/C/2016/000089

Sanjiv Chaturvedi v. Ministry of Environment & Forests, and Intelligence Bureau, Government of India

Date of hearing: **12.4.2016**

Date of decision: **21.4.2016**

Present: **Appellant Mr. Sanjiv Chaturvedi**, IFS,
CPIOs Mr R S Negi, MOEF, **Mr Viplav**, IB.

I. Background:

1. Appellant sought through RTI, a copy of IB report submitted in relation to false cases filed against him by corrupt officers exposed by him during his term as DFO in Haryana. MOEF sought opinion of IB, who objected to disclosure. The applicant approached the Commission seeking approval for disclosure of IB report as required under Section 24.

II. CIC Order of Notice dated 21.3.2016

2. The Commission issued notice to MoEF and IB to present their case. Its order after hearing on 21-3-2016 is:

> 1. Mr. Sanjiv Chaturvedi, an Indian Forest Service Officer has filed this application under section 24 of the RTI Act, 2005 pleading urgent consideration.

2. Mr. Sanjiv Chaturvedi submitted: that he needs a copy of IB report, which was sent to Cabinet Secretary and the Ministry of Environment and Forests in August, 2014, on the issue of foisting false cases against him in retaliation against his investigation and reports against major corruption in the State of Haryana; that he filed a criminal Writ Petition No.148/2012 before the Supreme Court; that the President of India had to issue four extra-ordinary 'Presidential Orders' to quash illegal orders passed by the Haryana Government against him; that another writ petition No.1888/2015 was filed before the Delhi High Court claiming that his human rights were being violated; that he challenged the order of the Central Administrative Tribunal in OA No.1275/2015 blaming him that "the documents filed by him could be 'classified documents', he was guilty of at least misfeasance, if not, misconduct"; that because the harassment meted out to him is directly linked to his exposure of corruption both in Haryana Government and AIIMS, the IB report would become very crucial in ascertaining the reality; that he urgently needs a certified copy of the IB report, to establish his innocence and to fight against harassment; that in his Writ Petition No.1888/2016, the Court asked him to furnish all relevant documents, which include this copy of IB report, to prove his claims; that he approached the respondent authority/MOEF by RTI application dated 5-12-2015, who rejected the request saying that Intelligence Bureau when consulted, has objected to sharing of IB report; that IB was claiming complete exemption from RTI under Section 24 ignoring the provisos to that section; the Under Secretary to Government of India, Ministry of Environment and Forests communicated to the applicant on 7-1-2016, furnishing a note sheet of the concerned file in which the summary of IB report was made available showing that IB concluded that cases against him were false; that such a gist of the IB report was also submitted by the Central Government in their reply affidavit in OA No.661/2015 before the Central Administrative Tribunal, Principal Bench, New Delhi showing that there was no need to keep it as secret and deny access; that he has a right to seek approval of CIC for sharing a copy of IB report under S 24 of Right to Information Act. He prayed the Commission to approve sharing of IB report with him and to direct the IB and MoEF accordingly.

….

9. For reasons discussed above, the Commission consider that applicant has made out a prima facie case for admission of this application urgency of hearing the matter under Section

24 and hence directs to issue notice of hearing to the office of IB requiring them to send a responsible officer to present their case. The IB office can either send their representation in the form of an affidavit or authorise the representing officer to make oral submission. The IB can also examine the need of the applicant and, if convinced, can furnish the certified copy of IB report sought, or withdraw objection to sharing of it, allowing the MoEF to release a copy of the same to the applicant, and send the Commission a compliance report, in which case there will be no necessity of next hearing.

10…..The Commission directs the CPIO of MoEF to explain why penal proceedings shall not be initiated for not applying his mind to exercise discretion as required under RTI Act, to decide on sharing the copy of the IB report, the gist of which is already is known.

11. The case is posted for responses of CPIO of MoEF and authorities of IB, to 12th April 2016, at 2.30 pm.

Proceedings on 12.4.2016

3. **Appellant's Submission:** Mr Sanjiv Chaturvedi, appellant explained his background and the harassment he faced during his service. He achieved 2nd rank in IFS, received two special medals from President, during training in Indira Gandhi National Forest Academy, Dehradun, allocated in Haryana Cadre and posted as Divisional Forest officer, Kurukshetra, Haryana. He stopped large scale habitat destruction including felling of trees and poaching of wildlife in the Saraswati Wildlife Sanctuary by the contractors of Irrigation department. In retaliation Government started transferring him. By first transfer he was moved to remote Fatehabad in May 2007. At Fatehabad he stopped misuse of public funds to create private assets in the name of creation of herbal park in private land belonged to politician. He was threatened and HoD warned him and also was suspended. First false case was filed against him on the charge of a theft of a tree and criminal intimidation. President of India revoked this suspension on 3.1.2008. Petitioner was kept without posting thereafter till June 2008 when he was posted as DFO, Mewat, a non-cadre post, which was stayed by CAT (Chandigarh). He was given cadre posting in Jan 2009 as DFO Jhajjar.

4. An enquiry was ordered on departmental charge-sheet after gap of 3 years by a senior officer loyal to Chief Minister and Forest Minister of Haryana, which was timed in such a way that he would be deprived of promotion. Appellant sought information under RTI, which was denied by state. Haryana State Information Commission awarded Rs 10,000 compensation to be paid by the department for harassment and detriment caused. At Jhajjar, appellant exposed multi-crore plantation scam where crores of public funds were siphoned off in the guise of fake plantation, which led to suspension and charge-sheeting of 40 field staff. Second false case was filed against appellant alleging he abetted suicide by a suspended employee of a plantation, though father of the deceased employee complained that one lady was suspected for murder. Appellants' name was inserted in FIR. Though the investigating officer concluded it as suicide under influence of alcohol, the state government prevailed upon father to implicate petitioner. Forensic reports proved these claims wrong. File notings proved that the Chief Minister desired to transfer him from Jhajjar to Hisar. It was because the inquiry and prosecutions launched by appellant embarrassed the Government. At Hisar appellant unearthed another plantation scam wherein funds of the central government sponsored schemes were embezzled and this scam involved senior officers who were very close to the Chief Miniser.

5. Appellant also caused closure of a large plywood unit for depositing Rs 26000 as license fee against requirement of Rs 22 lakh. He faced third transfer, this time again by the Chief Minister considering his post as vacant while he was abroad for training. The Appellant represented to Cabinet Secretary and President of India. Cabinet Secretary constituted a 2-member Inquiry Committee on 15.9.2010. The Inquiry Committee report submitted in December 2010 pointed out how appellant was harassed by Haryana Chief Minister:

> ***Role of The Chief Minister*:** Right from suspension (when CM office first ordered to call the explanation of the officer and then suddenly calling back the file midway before the explanation order being issued and then suspending the officer on the basis of concealed reports regarding compliance by the officer) transfer from Kurukshetra (when the orders originated directly from CM office, without any reference from lower office, immediately after

sanctuary violation, Jhajjar (once again the orders originated directly from CM office, without an reference from lower office, when investigation of plantation scam was at its peak and the officer had spent just six months) and Hisar (once again the orders originated directly from CM office, without any reference from lower office, when the officer was pressing for action in Jui- Mithathal feeder scam and had just sealed ASM Plywood Unit), the role of CM office has been more than evident, in removing the officer from the scene, at the detection of any scam/violation. Since, it cannot be possible for any state agency to conduct enquiry into the working of CM Office, hence it should be immediately referred to Central Bureau of Investigation CBI as prima-facie there are very strong evidences against CM office".

About the role of the then ***Forest Minister****, the Committee observed*; "In this whole episode, the role of the then Forest Minister, Ms. Kiran Chaudhary is very evident. The evidences are her "annoyance on the stoppage of the work of the Herbal Park", mentioned clearly in writing by the then P.C.C.F., Haryana and that too on the same day on which resolution was got passed against the officer by Gilla Khera Panchyayat; proposing the suspension of the officer by concealing the compliance reports and statutory provisions; repeated opposition to the recommendation of the then Financial Commissioner (Forest), Sh. P. K. Gupta regarding taking the free gift of the private land of Fatehabad Herbal Park; returning the proposal of Sh. P. K. Gupta regarding the filing of the charge-sheet of the petitioner without citing any reason and the case being kept pending at the level of P.C.C.F., Haryana, till her being in the office; keeping the officer without any posting after his re-instatement for 6 months and then proposing his posting as D.F.O., Jind, under the same officer who got him suspended, by over-ruling Sh. P. K. Gupta's proposal to post him on other Cadre Posts occupied by non-cadre officers, etc. It may be possible that because of Mrs. Kiran Choudhary's influence, the later Financial Commissioner (Forest) Ms. Keshni Anand Arora, jwould have subverted the decision of her predecessors who were both senior to her in the service. It is very surprising to note that despite of scrutiny at so many levels- P.C.C.F., Office; Financial Commissioner (Forest); Forest Minister; Legal Remembrance and the Chief Minister Office, such an illegal document was produced. It raises a big question mark on not only the competence of these offices, but also about the intentions of the concerned authorities.

6. *About the* ***victimization*** *of the petitioner*, the Committee observed:

This is a case which shows the level of degradation that has crept into our administrative system. In the said case, a junior officer of an All India Service was harassed through all the means available with the concerned authorities of the State Government, which include frequent transfers, long spells without posting, arbitrary suspension, issuing a fabricated charge-sheet, keeping the charge-sheet pending for long period to stall the promotion, registration of false cases, spoiling the ACR, etc., only for doing his statutory duties.

On the basis of the available documents, it is proved beyond doubt that the only cause for the harassment of the officer was his stand in protecting a Wild Life Sanctuary against destruction from powerful contractors, opposing the illegal expenditure of public funds to create private assets on the private land of politically influential person in the name of development of the Herbal Park and exposing large scale financial irregularities in plantation projects, funded by the Central Government, as well as International Donor Agencies. Certain features of this case are very shocking – that the officer was first transferred, then issued warning by the State Govt., then suspended and finally issued a charge-sheet under major penalty (which has been deliberately kept pending for more than three years) for the same act of preventing the destruction of a Wildlife Sanctuary, in implementing the orders of Hon'ble Supreme Court (according to which the prior permission of Supreme Court has to be taken before undertaking construction activities in the protected areas)/provision of Wildlife (Protection) Act, 1972 and Forest (Conservation Act), 1980 (both are Central Acts) – this may be the first instance in the administrative history of the country, when a State Govt. suspended and charge-sheeted an AIS officer for the implementation of the orders of the Hon'ble Supreme Court; even when the officer represented against the illegal warning in this case, his submitting the representation was itself considered as a misconduct by the State Govt. and was inserted as a charge in the charge-sheet; the open use of public funds to create private assets on the private land of politically influential persons; preparing a highly fabricated/illegal charge-sheet by a state govt. against its own official, in which, even the compliance report of the officer was concealed to create the charge of insubordination; during his five year tenure in the state, the officer was kept without any cadre posting for 2 ½ years and served 11 posting orders, routinely after exposing scams, while no action seems to have ever been taken against the officers involved in the various scams which include the case of Jhajjar Forest Division, where out of 37 beats of the whole division, fake payments were detected in

26 beats, but even then no action was taken by the State Government against the concerned D.F.O. responsible for these irregularities; the mere allegations of a Forest encroacher were thought to be enough by the State Government to charge-sheet the officer under major penalty, and the charge still not being removed despite exoneration by State Vigilance Bureau and departmental inquiry, more than two years back; even the personal life of the officer was dragged, into the said charge-sheet despite the charges being quashed by High Court; a trivial incident of the probation period was inserted into the charge-sheet; going beyond the jurisdiction and despite the fact that the competent authority in the matter i.e. Director, I.G.N.F.A., had already made it clear that it was a routine matter, which was closed and no further action was needed; repeated violations of cadre rules by State Government in which cadre officers were kept without posting and non-cadre officers were given cadre postings despite statutory rulers and strong directives of the Central Government; defense of the violators at the cost of public exchequer by the State Government, while penalizing the officer for implementing the statutory provisions; even after the charges of the charge-sheet, being adjudicated by Hon'ble Supreme Court appointed CEC (which found the charges of violation true and State Govt. had to deposit Rs. 1.00 Crores)/ Allahabad High Court/State Information Commission (where the state govt. had to accept in written that the said charge-sheet was framed wrongly and had to pay a compensation of Rs. 10000/- to the officer)/Central Administrative Tribunal (CAT) in the officer's favour, etc. and in fact, the officer getting awards for his role, including the one given by National Advisory Council member, Ms. Aruna Roy, the State Govt. seems to be hell bent on somehow keeping that fabricated charge-sheet pending to keep the officer continuously on tenterhooks.

7. In spite of repeated requests by Centre the Haryana Government did not act to fix responsibility and to take action against the officials for corruption proved by appellant. Centre referred the entire case to Central Vigilance Commission in 2011, since state refused to take action on inquiry committee report. The CVC referred the matter to CBI, who reached following conclusions in its report dated 01.11.2011

> The issues raised by Sh. Sanjiv Chaturvedi were analyzed in CBI and were found to be worthy of an independent probe. …

CBI is willing to taker over investigation of this matter, provided an FIR pertaining to the offences is first registered with Haryana Police and the State Government issues a notification u/s 6 of DSPE act, 1946, for transferring the said case to CBI. This would be required to be followed by issuance of a notification by the Central Government u/s 5 of DSPE aCt, 1946.

This issues with the approval of Director, CBI.

8. Appellant was posted as Deputy Secretary All India Institute of Medical Sciences under the Ministry of Health and Family Welfare and also given the additional charge of Chief Vigilance Officer (CVO) at AIIMS. He initiated action against the doctors who were making unauthorized foreign trips. The police seized banned drugs worth ? 6 crore from a vehicle supplying drugs to an on-campus pharmacy owned by an MLA. The then health minister signed two internal reports which rated his work as a CVO as "outstanding". He also initiated actions in around 200 corruption cases during his working as CVO; punishment was imposed in 78 cases, chargesheet was issued in 87 cases and more than 20 cases were referred to CBI for criminal investigation. In 2014, he was relieved from the additional charge of CVO. He continued as the Deputy Director at AIIMS. He wrote to new Union Health Minister alleging that his removal from CVO post was due to campaign by corrupt officials of AIIMS, interestingly it was supported by staff of AIIMS who wrote to PM seeking his reinstatement. Health Minister stated that there was no malafide intention in removal of appellant from CVO post because CVC indicated he had been appointed as CVO without Commission's approval and that appellant continues as Deputy Secretary at AIIMS.

9. He applied for change of cadre from Haryana to Uttarakhand in 2012 on grounds of extreme hardship including frequent transfers, suspension and false police/departmental cases. The MoEF, after required approvals recommended the change to the Appointment Committee of Cabinet ACC headed by the Prime Minister. ACC ordered to bring fresh NOC from both the State Governments. This order was challenged before CAT which quashed that in May 2015 leading to change in the cadre. Mr. Sanjiv Chaturvedi, submitted these details before the courts and the Commission to explain the harassment.

10. Mr Sanjiv Chaturvedi further contended:

a. that he filed RTI request on 5.12.2016 seeking copy of all file noting/documents/correspondence/all type of reports between MoEF, DoPT, Cabinet Secretariat and Appointment Committee of Cabinet regarding interstate cadre transfer of himself from Haryana to Uttarakhand, etc.,;

b. that MoEF charged Rs 188/- and provided 94 pages, in which the copy of IB report was not included.

c. that the copy of IB report sought by him is no where related to national security or relationship with foreign country or under any other exemption of section 8 (1);

d. that gist of IB report was already made available and it disclosed nexus between corrupt politicians and corrupt bureaucrats and its sharing serve the national interest;

e. that when the gist could be disclosed, correspondence with IB was shared, why not the complete report is not given;

f. that on three occasions he had sought the CBI reports under RTI from Ministry of Health and Family Welfare, who furnished the same, though CBI was also exempted u/s 24;

g. that public authority can provide the IB report though IB is exempted under section 24;

h. that two member inquiry committee constituted by MoEF revealed how he was harassed and denied his rights which would amount to violation of his human rights;

i. that under the category of human right violation related exemption, he is entitled to a copy of the IB report;

j. that para 10 and 11 of Presidential Order of 19.01.2011 explaining the harassment caused and the order of CAT dated 06.05.2015 in Original Application No. 661/2015 at paras 7 and 8 referring to the harassment meted out to him;

k. that he requires the certified copy of IB report to prove his innocence in false cases lodged against him and also to prove the corruption of other officers who harassed him;

l. that Adarsha Sharma case decided by Delhi High Court, will not apply to his case as facts were totally different, as the information sought in Adarsh Sharma case was

about disappearance of a particular person whereas the information which he was seeking was pertaining to corruption and human rights violation;

m. that information sought is held by MoEF, not hit by any exemption under section 8 and hence, should be given and the MoEF is not bound by the advice of IB;

n. that he too was part of Government of India, being a law enforcing Indian Forest officer, four Presidential Orders established fact that he was being harassed only for performing his public duty and he is not a threat to the national security but he was working to enforce rule of law.

Hence, he pleaded denial had no legal basis and it was against RTI Act.

Contention of Respondents:

11. Mr. Viplav, Asst. Director & the CPIO of Intelligence Bureau denied the report claiming exemption under Section 24 of RTI Act. Mr R S Negi CPIO MoEF stated that all the documents requested for, except report of Intelligence Bureau, were provided to him on 7.1.2016, the Report of Intelligence Bureau could not be provided since the Intelligence Bureau, including any information furnished by Intelligence Bureau is exempted under Section 24 of the RTI Act, 2005. CPIO stated that after due consideration, he obtained advice of IB who conveyed their reservations in the matter. Had there been no reservations from IB, he would have definitely provided the requisite information to the applicant. He also claimed that he was duty bound to follow the provisions contained in RTI Act and also conveyed sincere apologies for any inconvenience caused to the Commission. Mr. R. S. Negi, CPIO, MOEF further stated that Intelligence Bureau objected to disclosure as IB was exempted under section 24 of RTI. The CPIO of IB cited the judgment of Hon'ble Delhi High Court W.P (C) No. 7453 of 2011 dated 09.10.2013 between Union of India and Adarsh Sharma in their defence.

III. Questions and Answers

12. Summary of Questions before the Commission and answers found are:

a) Whether IB report contains information pertaining to allegations of corruption or human rights violations? Yes.

b) Whether IB, an exempted organization under S 24 can deny the copy of its report to the appellant? No.

c) Whether MoEF was right in simply obeying the objection raised by IB? No.

d) Whether denial amounts to breach of RTI Act? No.

IV. Analysis:

13. Appellant Mr. Sanjiv Chaturvedi, who has charge-sheeted several Public Servants and Political Executives in Government for corruption during his service in Haryana, is seeking a report by IB about his own issue, not about third party. All the above references will establish that he was victim of harassment by public servants charge-sheeted by him. This fact was also confirmed by the investigation of IB as revealed by gist given in response to his RTI request. He explained how this IB report will help to prove his innocence, counter harassment and force prosecution of charge-sheeted officers. Public authority should have considered this. Public interest is clearly visible behind disclosure. None can deny that fighting false cases and seeking prosecution of corrupt persons is in the public interest. As a civil servant appellant also needs to protect his right to service as prescribed by law.

14. The gist of the IB report came into public domain as submitted to court of law: "*There appears to be truth in the contention of Shri Sanjiv Chaturvedi regarding alleged harassment meted out to him by Haryana Government. His request for change of cadre from Haryana to Uttarakhand merits consideration*."

15. Another most important proof appellant submitted was that for four times the highest office and constitutional head of nation, the President had to intervene to rescue him from the harassment unleashed by the political rulers. The summary of four Presidential Orders is relevant here.

First Presidential Order: The Ministry of Environment and Forest has confirmed the fact of harassment in Presidential Order dated 19.01.2011 as follows:

> 10. Whereas the Committee noted that the Government of Haryana had admitted before the State Information Commission in April 2009 that the charges were inserted incorrectly and as a result had been severely criticised by the State Information Commission for the harassment caused to the officer and ordered to pay compensation of Rs. 10,000/- to Shri Chaturvedi.
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> 11. Whereas, the Committee concluded that the officer appeared to have been charge sheeted for implementing the orders of Hon'ble Supreme Court and upholding the law, which is not justified, and the charge sheet had been kept pending by the state government deliberately for more than three years thereby blocking his prospects of promotion, deputation, study leave etc.

Second Presidential Order: The harassment includes suspension by the Haryana Government, wherein the corruption was pointed out by appellant along with proofs. The President has passed on order on 3rd January 2008 saying that Sanjiv Chaturvedi filed an appeal against suspension by Government of Haryana, which was requested by MoEF by three letters in 2007 to provide comments and relevant documents; as there was no response from Haryana, President considered material filed by Sanjiv Chaturvedi and revoked suspension order dated 3.8.2007.

Third Presidential Order: President's Order dated 3rd October 2013 is on six representations filed by Sanjiv Chaturvedi, against the chargesheet issued to him. After considering the comments filed by the Government of Haryana, President was of the opinion that none of the charges contained in the charge sheet served upon him vide its Order No 3319-va-2-2012110266 dated 21.08.2012 is sustainable and the charge sheet deserves to be revoked/quashed. Inquiry ordered against him was also quashed.

Fourth Presidential Order: In this order dated 31.1.2014, the President concluded that adverse entries in the ACRs of appellant for years 2010-11 and 2011-12 by Accepting Authority are not tenable and ordered that grading (eight and a half points) awarded by the Reviewing Authority should be accepted as final grading. All remarks including adverse remarks recorded by Accepting Authority and grading were expunged in totality with immediate effect.

16. It is perhaps a sort of history in the career of appellant-civil servant that President had to issue four orders to deal with harassment, by way of quashing charge-sheets twice, revocation of suspension and expunging the adverse remarks in his annual report. No more proof is needed to say that Mr. Sanjiv Chaturvedi was being harassed by Government of Haryana in revenge to his functioning according to rule of law, only to hide their corruption and to escape from extending (if) hands of law.

17. According to several documents, Two-Member Committee report and other statements, the harassment meted out to appellant was substantiated to be '**extreme hardship'**. The Principal Bench of Central Administrative Tribunal in its Order dated 06.05.2015 in the case of **Sanjiv Chaturvedi v. Union of India & Ors**, his fight against the victimisation was explained:

> 2.The applicant has cited number of instances of extreme hardship in this OA, including four extraordinary presidential orders passed under Rules 16 & 25 of the All India Services (Discipline & Appeal) Rules, 1969 quashing the illegal orders of the State Government for implementing the Hon'ble Supreme Court orders in protecting a Wildlife Sanctuary and for preventing illegal expenditure of public funds on a private land in the name of Herbal Park; a major penalty charge sheet was issued to him on 14.09.2007 on the same charges; another major penalty charge sheet was issued in August, 2012 implicating the applicant in the same multi crore Jhajjar plantation scam, which had earlier been exposed by him. The applicant further submits that the ACRs for the years 2011-2012 were restored to Outstanding on

31.01.2014. The Central Vigilance Commission had directed to provide protection to the applicant to prevent his harassment but the same was not given to him. A two member inquiry committee appointed by Respondent No.2, i.e., MoEF under directions from the Cabinet Secretariat found charges of extreme hardship including harassment/threats true and had inducted senior functionaries of the State government including the Chief Minister, State Forest Minister and senior bureaucrats on this account. The applicant had also given examples of false criminal and vigilance cases being filed against him. The CBI has sought to make investigation into some of the episodes covered under the two member committee's enquiry report, which was supported by Respondent No.2. However, the Government of Haryana declined the CBI investigation. Thereafter the applicant preferred a Criminal W.P. No.148/2012 before the Hon'ble Supreme Court of India. It was in view of this backdrop that the applicant had submitted his request for transfer of cadre from Haryana to the State of Uttrakhand.

3. The case of the applicant is that the change of cadre had also been recommended by the MOEF in its report of two Members Committee appointed to go into the harassment of the applicant at the hands of the State and its authorities and also by the two respective state governments, i.e., of Haryana vide its letter dated 04.03.2014 and that of Uttrakhand accepting his change of cadre by letter dated 22.04.2014. The case was then submitted before the ACC for its approval on 25.07.2014. However, before the approval could take place, there was a change in the government and the matter continued to pend before the Central Government from July, 2014 till the impugned order was passed directing that fresh approval of the two respective state governments should be obtained on account of change in their governments.…."

8. We would like to conclude here by stating that even without going into the merits of the case and only on the basis of a cursory reading**, the instances of harassment cited appear to be on the extreme side and deserve to be taken serious note of.**

9. We also take note of the submission of the learned counsel for the respondent which clearly indicates that reconsideration of the issue is within the minds of the respondents. **We**

hope and trust that the respondents have taken note of the points raised by the applicant during the course of arguments regarding extreme hardship and relentless persecution merely because of carrying out the duties assigned to him under law.

18. All these prove that the appellant was being harassed, his rights were being breached, false cases were foisted and thus it is, beyond doubt a case of 'corruption and human rights violation', sufficient enough to invoke the proviso to Section 24 to approve disclosure of IB report, since that pertains to corruption and human rights violation.

19. It's not a total denial of information by public authority; Mr R S Negi, Under Secretary of MoEF, in response to RTI request, gave a photo copy of correspondence and notesheet of file No. 17016/02/2015-IFS-I and No. 17016/09/2013-IFS-I on 7th January 2016, which contained the gist of the IB report. This gist was also mentioned by the Central Government in their reply affidavit in OA No 661/2015 before CAT, Principal Bench, New Delhi. On this point also neither the MoEF not IB has any justification in denying the full report, after disclosing the gist. It will also amount to giving 'incomplete information' which can attract penalty Section 20.

V. The Act and Judgments:

20. The purpose of exempting the organization and scope of proviso to Section 24 of RTI Act, 2005 need to be analysed;

24. Act not to apply to certain organisation: (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 organisation 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.

21. The points of inference from above section 24 are:

a) The organisation like IB as specified in second schedule being established by the central government are exempted.

b) The information furnished by such organisation to the government also cannot be given as per the last part of section 24(1).

c) The first proviso specifically exempts the information pertaining to the allegation of corruption and human right violation from section 24(1).

d) The Central Information Commission has power and authority to approve/disapprove to provide the information if the information sought for is in respect of allegation of violation of human right.

e) If Central Information Commission approves the information it shall be given within 45 days from the date of receipt of request not withstanding anything contained in section 7.

22. According to the first proviso to Section 24 of the RTI Act, the information **pertaining to allegations of corruption and human rights violations shall not be excluded** under Sub-section (1) of Section 24. That means even though the organization like IB is totally exempted u/s 24, this kind of information could be furnished by IB. Expression '*pertaining to the allegations of corruption and human rights violations'* is not defined anywhere. For understanding this expression, one need to study the High Court decisions on this section.

Union of India and Adarsh Sharma, 2013

23. The CPIO of Intelligence Bureau relied upon only one judgment, i.e., of Hon'ble Delhi High Court in W.P (C) No. 7453 of 2011 dated 09.10.2013 between **Union of India and Adarsh Sharma**, wherein Dr. Vijay Kumar Vyas sought to know certain details of a doctor who left the country and died abroad. His applications were transferred to the Intelligence Bureau who denied, invoking S 24. In second appeal the CIC stated that present case squarely attract the Proviso (I) to Section 24 (1) of the RTI Act, the information sought pertains to allegation of corruption and directed to provide information. The Delhi High Court held that information sought was neither related to corruption nor human rights violation and set aside the order of CIC. However, the Judge observed:

> 5. However, in my view, if information of the nature sought by the respondent is easily available with the Intelligence Bureau, the agency would be well-advised in assisting a citizen, by providing such information, despite the fact that it cannot be accessed as a matter of right under the provisions of Right to Information Act.

24. Based on this judgment MoEF contended that it was discretion of exempted organization and not the right of appellant to seek information. Appellant pointed out that information sought in the above referred Writ Petition is totally different from the category of information to be given according to section 24 which includes the information sought in this case. Factually it was proved that information sought by Mr. Sanjiv Chaturvedi is regarding the harassment meted out to him by the corrupt officers and politicians.

25. The public authorities such as IB and MoEF should understand that 'exemption under S 24 is not a licence to be secretive or silent on corrupt, unaccountable, non-transparent ignoring all the legal guarantees of right to information under the RTI Act. The exempted organizations are still liable to disclose voluntarily the information under Section 4, also answerable under other provisions of law, amenable to jurisdiction of Information Commissions and supposed to give permissible information subject to Sections 8 & 24, provided the information is not related to core areas of 'security' and 'intelligence'. This has been explained by various High Courts:

1. **FAA and Addl DGP v CSIC, Haryana**, 2011: A division Bench of Punjab & Haryana Court has explained that if information sought is 'pertaining to allegation of corruption" even exempted organization has to give that information. Dismissing the LPA 744 and 755 of 2011, **First Appellate Authority and Addl DGP v CSIC, Haryana**, the bench of Hemant Gupta, AN Jindal, JJ on 28-4-2011 observed:

> The expression "pertaining to allegation of corruption" is not defined in the Act. Even, the Prevention of Corruption Act, 1988 does not define what are the allegations pertaining to corruption? In the absence of any statutory definition in the Act, the ordinary meaning to the

expression used in the Act has to be applied. The expression "pertaining to allegation of corruption" cannot be defined. It includes within its meaning many colours and shades of corruption. There cannot be any exhaustive definition that what are the allegations pertaining to corruption. But an attempt can be made to understand the scope of the expression used in the statute.

The Act is to step-in-aid to establish the society governed by law in which corruption has no place. The Act envisages a transparent public office. ***Therefore, even in organizations which are exempt from the provisions of the Act, in terms of the notification issued under Section 24(4) of the Act, still information which relates to corruption or the information which excludes the allegation of corruption would be relevant information and cannot be denied for the reasons that the organization is exempted under the Act.***

The information sought in the present case is in respect of the *number* ***of vacancies which have fallen to the share of the specified category and whether such posts have been filled up from amongst the eligible candidates. If such information is disclosed, it will lead to transparent administration which is anti-thesis of corruption. If organization has nothing to hide or to cover a corrupt practice, the information should be made available.***

The information sought may help in dispelling favoritism, nepotism or arbitrariness. Such information is necessary for establishing the transparent administration.

2. **FAA, Addl. DGP, CID of Haryana v CIC, 2009:** In an earlier case **FAA, Addl DGP CID of Haryana v CIC** CWP No. 12904/2009 decided by Mehinder Singh Sullur, on 27th Jan 2011, explained that ***all information sought not concerned with security and intelligence shall be given***. Justice Sullur said:

A combined reading of these provisions would reveal, only that information is exempted, which is **directly effecting and co-related to the "Intelligence" and "Security" of that organization of the State and not otherwise**.

As is evident from the record that the information sought by respondent No.2 is general in nature, such as number of posts, occupied, vacant and adjusted between 1989-2003 of

ASI/SI and Inspector. He has also sought the copy of inquiry report of complaint sent to Additional Director General of Police of Criminal Investigation Department on 9.8.2008 which related to corruption and human rights violation by the recruitment agency. Taking the nature of the information sought by respondent No.2 into focus, the argument of State counsel that the information cannot be supplied in view of the notification, pales into insignificant, particularly, when such information pertaining to allegations of corruption and human rights violation are not otherwise covered under the exemption clause of Section 24(4) of the Act as urged on behalf of the petitioners.

3. **Abid Husssain v State of Manipur High Court, 2015**: The judgment and order dated 13-10-2015 in W.P. (C) No. 880 of 2014 **Abid Husssain v State of Manipur** High Court of Manipur had examined the question as to whether the petitioner was entitled to information sought when the Police Department, Government of Manipur had been exempted and no allegation pertaining to corruption and violence of human rights had been made by him. The information sought for was with regard to the recruitment process of Sub-Inspector of Police. The Court observed:

.... As already discussed above, the expression used in the proviso i.e., "information pertaining to allegations of corruption and human rights violence" is of too general and of wide amplitude which has not been defined in the Act or any cognate Act. ...

Therefore, in the context of the Preamble, what is evident is that these organisations referred to in Section 24 of the Act have been specifically sought to be taken out of the purview of the Right to Information Act, 2005 in order to protect certain public interests including efficient operations of Government, optimum use of limited resources and preservation of confidentiality of sensitive information. However, an exception has been made to this exclusionary provision by inserting the said proviso where the "information pertaining to allegations of corruption and human rights violence" will be subject to the provisions of the Right to Information Act, 2005. This Court is of the view that if any information sought for does not relate to any of these areas referred to in the Preamble which the Act seeks to protect and preserve and thus keep away from public domain but are also relatable to any allegation of corruption and violence of human rights, there is no reason why such an information should be withheld, if sought for. (Para 11)

It has further been held that if any information has the potential to raise a serious question of the existence of corruption or violation of human rights, it can be certainly considered to be "pertaining to allegations of corruption and human rights violation". The para 12 thereof is as under:

This issue can be viewed from another perspective. The legislature in their anxiety to keep certain organisations which are engaged in activities involving sensitive information, secrecy of the State, have sought to keep these organisations away from the purview of the Act by including such organisations in the Second Schedule of the Act as far as Central Organisations are concerned and in the official gazette in respect of State organisations. ***It does not, however, mean that all information relating to these organisations are completely out of bound of the public.*** For example, even though the Central Bureau of Investigations is one of the organisations included in the Second Schedule to the Act, it does not mean that all information relating to it are out of bound of the public. If one looks at the website of the Central Bureau of Investigation which is in the public domain, there are so many information about the organisation which are already voluntarily made open to the public. This is for the simple reason that disclosure of these information does not in any way compromise with the integrity of the organisation or confidentiality of the sensitive nature of works undertaken by this organisation. The purpose of excluding all these organisations from the purview of the Act as provided under Section 24 is to merely protect and ensure the confidentiality of the sensitive works and activities undertaken by these organisations. ***Therefore, if there are any information which do not impinge upon the confidentiality of the sensitive activities of the organisation and if such information is also relatable to the issues of corruption or violation of human rights, disclosure of such information cannot be withheld.*** Similarly, in respect of the police organisations in the State of Manipur if anybody seeks any information which does not touch upon any of the sensitive and confidential activities undertaken by the police department and if the said information also can be related to the issues of any allegation of corruption or violation of human rights, such information cannot be withheld.

Doctrine of 'pith and substance': We may further clarify this position by borrowing the concept of doctrine of "pith and substance". The doctrine of "pith and substance" was evolved

by the courts primarily to determine whether a particular law relates to a subject mentioned in one list or the other and while doing so, the Court looks into the substance of the enactment. Thus, if the substance of the enactment falls within the Union List then the incidental and encroachment by the enactment on the State list would not make it invalid. Thus, the essence of this doctrine centred round the substantive part of the enactment or the core subject of the enactment. Though this doctrine cannot be invoked to decide the issue raised in this petition, the principle behind it may be referred to while deciding the issue at hand. ***By doing so, this Court will hold that if any information relates to the core activity of the organisation because of which such an organisation has been excluded from the purview of the Act, any such information can be withheld except which relates to allegation of corruption and violation of human rights. Therefore, if there be any information which does not relate to the principal or the core function of the organisation which is sought to be protected by including in Section 24 of the Act, but if it can have some reference or relatable to corruption or violation of human rights, such an information cannot be withheld.*** It may be observed that the core function of the police organisation is to maintain law and order, security of the State and discharge such activities which are related to and ancillary to these functions***. It that context, undertaking the exercise of a recruitment process is not part of the core function of the police department.*** It is some function which could be outsourced to any other agency like the Public Service Commission etc. and this activity does not form part of the core function of the Police Department which cannot be outsourced to any other agency. Of course, recruitment of intelligence officials may form part of the core function. But in the present case, such is not the case. The recruitment in issue is the general recruitment process of the personnel of the police department generally."

Subject to S 8: There is of course, one aspect this Court has to keep in mind. Section 8 of the Act provides for exemption from certain information. It starts with the non-obstantive expression "Notwithstanding anything contained in this Act." Therefore, even if any information sought for comes under any of the clauses mentioned in Section 8 of the Act, the authority can withheld such information. In the present case, disclosure of the marks obtained by a candidate in a recruitment process cannot be said to be hit by any of the clauses mentioned in Section 8 of the Right to Information Act, 2005. This Court has already observed that such

information is relatable to the allegations of corruption and human rights violations, such information cannot be withheld.

4. Sri Phairemban Sudhesh Singh v State of Manipur, 2015

The Manipur High Court in W.P.(C) No. 642 of 2015 **Sri Phairemban Sudhesh Singh v State of Manipur**, reiterated their decision about the scope of S 24.

In this case, the information sought for by the petitioner are as regards his service namely the initial appointment, suspension order, documents relating to departmental proceedings, termination order etc.

> **Issue of transparency and accountability**: the HC held: There can be no ..dispute that the RTI Act, 2005 is enacted with the avowed objective of conferring a statutory right on the citizens in India to have access to Government-controlled information or to seek information from Central Government/State Governments, local bodies and other competent authorities as a matter of right. The idea is that it would prove to be instrumental in bringing in transparency and accountability in Government and Public Institutions which would help in bringing the growth of corruption in check. The scope of the Act is wide enough to cover all the Constitutional Institutions and subject to exemptions, universally applies to all Public Authorities. Section 3 gives statutory recognition to the right to information subject to the other provisions of the Act. Section 8 sets out limitations on the right of access as exemptions from disclosure of information.
>
> **Facet of freedom of speech and expression**: the HC held: Similarly, Section 24(4) confers power on the State Government to exempt any intelligence and security organisation established by it from the purview of the provisions. It may be noted that the right to information is a facet of "freedom of speech and expression", as contained in Article 19(1)(a) of the Constitution, which are the foundation of all democratic organisations. Fundamental rights should not be cut down by too restricted an approach. Even prior to the enactment of RTI Act, 2005, the expression "freedom of speech and expression" has been construed by the Hon'ble Supreme Court, in a catena of decisions, to include not only liberty to propagate one's views, ideas, opinions and thoughts but also the right to acquire information. In other words,

the right to information can be said to be a fundamental right subject to the exemptions as contained in Section 8 and 24 of the RTI Act.

....Article 19 of the Universal Declaration of Human Rights, 1948 provides that everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Read Act as a whole: To comprehend the intent of the Legislature while enacting the RTI Act specially as regards the said expression, the provisions of the Act, as a whole, are to be read keeping in mind the purpose for which the RTI Act is enacted and it may further be noted that the exemptions cannot be construed so as to defeat the very objective sought to be achieved in the RTI Act, 2005. Therefore, it has been rightly held by this court in the said case of Md. Abid Hussain Vs. State of Manipur, W.P. (C) No. 880 of 2014 that any information which does not touch upon any of the sensitive and confidential activities undertaken by the Police Department, Government of Manipur cannot be withheld at all. In other words, access to such information cannot be denied to the citizens. ... decision/order dated 26-06-2015 passed by the State Chief Information Officer, Manipur Information Commission, Imphal in Appeal Case No. 17 of 2015 is quashed and set aside with the direction that the respondent No. 4 shall provide the information sought ...

5. SP, Central Range, Office of DVAC v. R Karthikeyan, 2009

In **Superintendent of Police, Central Range, Office of Directorate of Vigilance & Anti Corruption v. R Karthikeyan** W.P. No. 23507 and 23508 of 2009, Division Bench, Madras High Court held on 12.1.2010 [AIR 2012 Mad 84], respondent sought for information regarding the number of police officials who were caught during the raid by DVAC together with the list of names, the designation and the address of officials, along with the amount recovered from each officials as well as the details of departmental action taken against each officials, the details of prosecution launched against the officials under the Prevention of Corruption Act and the status of such prosecution against each officials and whether the persons whose names are furnished were reinstated in service and if so, the date on which they had rejoined service

as well as the details of list of action taken by the department to prevent corruption at Police Station/Branches/Wings in Chennai City.

The Information Commission, directed to furnish the information. Madras High Court did not accept the contention of state in writ petition and held that in the event the information required by an applicant relates to the allegations of corruption, the said department cannot claim the exemption from furnishing those particulars relating to corruption. The Court further held:

> In terms of Section 24(4), the State Government is empowered to notify in the Official Gazette that nothing contained in the Right to Information Act shall apply to such intelligence and security organization being organizations established by the State Government. Nevertheless, in the light of the first proviso, such power being conferred on the State Government to notify exempting such intelligence and security organizations, it cannot notify in respect of the information pertaining to the allegations of corruption and human rights violations. As a necessary corollary, the power to exempt from the provisions of the Act is not available to the State Government even in case of intelligence and security organizations in respect of the information pertaining to the allegations of corruption and human rights violations. .... As all these particulars (sought by RTI applicant) would certainly relate to corruption, the Government Order has no application to the facts of this case.
>
> Thereafter, the Division Bench upheld the order of the learned single Judge dismissing the writ petitions preferred by the Public Information Officer, the petitioner herein in refusing to furnish the information.

6. Superintendent of Police v. M. Kannappan, 2012

Referring to above division bench judgment, the Madras High Court in another case stated that exempted organization shall comply with Section 4(1)(b)(v). In **Superintendent of Police v. M. Kannappan**, WP No 805/2012, D Hariparandhaman, J of the Hon'ble High Court of Madras, held on 28.12.2012, [2013(292) ELT 24 (Mad)] that a copy of the Vigilance Manual of the Directorate of Vigilance and Anti- Corruption is information pertaining to corruption and thus shall be shared. The single bench said that in view of the judgment of the Division Bench

read with the provisos to Section 24(4) of the RTI Act, respondent was entitled to have the manual of the DVAC.

> The manual cannot be kept as a secret document. It is nothing but a set of rules as to how the DVAC is functioning. I am not able to understand as to why the DVAC feels shy to furnish the manual. ...Likewise, the public authorities shall maintain the rules, regulations, instructions, manuals and records for discharging their functions as contemplated under Section 4(1)(b)(v) of the RTI Act.
>
> Section 2(f) defines "information" and the same is also extracted hereunder: 2. Definitions.-- In this Act, unless the context otherwise requires,-
>
> (f) "information"' means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.
>
> On a cumulative reading of Sections 2(f), 4(1)(b)(v), 8 and the provisos to Section 24(4), I am of the view that the first respondent is entitled to the manual of DVAC. Hence, finding no infirmity in the impugned order, the writ petition fails and the same is dismissed.

VI. Conclusions

26. Let us see what sort of information was directed by High Courts to be provided by organizations exempted under Section 24:

1. Number of vacancies which have fallen to the share of the specified category and whether posts have been filled from amongst the eligible candidates. (P & H, 2011)
2. Inquiry report of complaint sent to Addl DG of Police of Criminal Investigation Department. (P & H 2009)
3. Recruitment process of Sub-Inspector of Police. (Manipur, 2015)
4. Appellant's service related details like appointment, suspension, documents relating to departmental proceedings, termination order etc. (Manipur 2015)

5. Number of police officers who were caught during ACB raid, with list of names, amount recovered and details of prosecution with status of action taken. (Madras HC 2009)

6. Copy of the Manual of Directorate of Vigilance and Anti Corruption (Madras 2012)

27. Let us cull out the principles of transparency laid down in these decisions:

a) The expression “pertaining to allegation of corruption” cannot be defined. It includes within its meaning many colours and shades of corruption.

b) Therefore, even in organizations which are exempt from the provisions of the Act, in terms of the notification issued under Section 24(4) of the Act, still information which relates to corruption or the information which excludes the allegation of corruption would be relevant information and cannot be denied for the reasons that the organization is exempted under the Act.

c) If such (vacancies related) information is disclosed, it will lead to transparent administration which is anti-thesis of corruption. If organization has nothing to hide or to cover a corrupt practice, the information should be made available. (P & H High Court in 2011)

d) All information sought not concerned with security and intelligence shall be given. (P & H High Court in 2009)

e) If any information sought for does not relate to any of these areas referred to in the Preamble which the Act seeks to protect and preserve and thus keep away from public domain but are also relatable to any allegation of corruption and violence of human rights, there is no reason why such an information should be withheld, if sought for.

f) It does not, however, mean that all information relating to these organisations are completely out of bound of the public.

g) If there are any information which do not impinge upon the confidentiality of the sensitive activities of the organisation and if such information is also relatable to the issues of corruption or violation of human rights, disclosure of such information cannot be withheld.

h) Therefore, if there be any information which does not relate to the principal or the core function of the organisation which is sought to be protected by including in Section 24 of the Act, but if it can have some reference or relatable to corruption or violation of human rights, such an information cannot be withheld. (Manipur HC Abid Hussain case 2015)

i) Fundamental right of freedom of speech and expression, in which the Right to information is an inherent part, should not be cut down by too restricted an approach (with reference to Section 24)

j) 'The right to information can be said to be a fundamental right subject to the exemptions as contained in Section 8 and 24 of the RTI Act'.

k) Section 24 alone should not be read in isolation. To comprehend the intent of the legislature while enacting the RTI Act should be read as a whole keeping in mind the purpose for which RTI Act is enacted and it may be further noted that the exemptions cannot be construed so as to defeat the very objective sought to be achieved in the RTI Act 2005.

l) On a cumulative reading of Sections 2(f), 4(1)(b)(v), 8 and the provisos to Section the manual of Directorate of Vigilance and Anti Corruption could be given. (Sri Phairemban Sudhesh Singh v State of Manipur)

28. These orders of the High Courts should have been also considered or legal counsels should have advised MoEF or IB, if consulted; unfortunately they ignored this essential wisdom readily available in these orders.

29. The IB, in performance of its duty, established that appellant was being harassed for exposing corruption. It's sad that same department which recognized and established fact of harassment of the appellant denied that copy to him. Similarly it was two member committee constituted by MoEF which established the 'extreme hardship' the appellant was subjected to. This indicates the mindset of public authorities with reference to RTI Act. The CPIO should

have acted independently and applied his mind as mandated by RTI Act to examine what would be harm or threat to national security if complete report containing this issue is shared. Similarly the CPIO of MoEF did not hesitate to deny simply because IB did not want. He also failed to exercise his statutory duty using his independent discretion.

30. This attitude lends support to the criticism that state is the biggest litigant fighting a citizen or its own officer in tribunals and courts. Can this be called acting in good faith? Good faith means the officers are expected to act with due care and caution. Public authorities should neither fear nor hesitate to take a decision in time and should not throw their responsibility of decision-making on others. The indecision is compelling the tribunals to step into the shoes of executive authorities. These authorities should understand that RTI Act is a tool to enable that fear to decide, to decide.

31. Moreover, both the CPIOs have put forward stale and feeble defenses without understanding the purport of Section 24, in spite of interpretational directions by High Courts. Claiming that he was duty bound to follow provisions of RTI Act, CPIO of MoEF has selectively cited one High Court order conveniently ignoring judgments of several High Courts which very lucidly explained that there are several categories of information need to be given even by the organizations exempted under S 24. They also ignored actual purport of High Court's decision in Adarsh Sharma case. The IB report is no more a secret, as it has already gone in to public domain with Government filing affidavits in Courts of law, extensive media coverage, RTI applications and responses thereof. It is almost known to all public servants like political executives and civil service officers at Center and States that applicant is being victimized for booking responsible officers in afforestation scandal. Thus on questions of fact and of law, the IB report cannot be withheld from appellant.

32. The appellant stated that he did not dig any scandal on his own but acted as per rule of law on the complaints/files that reached him in his official capacity as forest officer. None should face wrath of corrupt public officers and be victimized for acting as per law. It is not question of Sanjiv Chaturvedi or any other but the requirement of protecting thousands of

sincere officers who are silently protecting the rule of law, to enable and embolden them by developing systemic safeguards as provided in the Constitution. The rule of law governed system should stand like rock by those who fight corruption. People in general should not form an opinion that it is not happening. If dozens of corrupt officers are united so strongly and enriched with corrupt money to take the litigation to its peak levels and consume decades to continue in power joining hands with corrupt political rulers and deliberately engaging sincere officers in litigation to clear their way of corrupt activity. The silence and inaction of majority of officers in several public authorities is lending support to corrupt and demoralizing the honest. Incidents around Sanjiv Chaturvedi are the examples of this phenomenon.

33. It appears that appellant was compelled to approach President, Supreme Court, High Court, CAT and CIC. He filed a writ petitions before Hon'ble Supreme Court of India under Article 32 of the Constitution seeking direction to CBI to take over of investigation of cases referred to in CBI report dated 1.11.11 etc. He also filed writ petitions before Hon'ble Delhi High Court. Fortunately the Constitutional governance permits top Political-executives like the President, the Prime Minister, Governors, Chief Ministers or bureaucratic heads to come to rescue of officers working sincerely against corruption wherever it is. If they do so, there will be no need for sincere officers to approach tribunals- judicial or quasi judicial, seeking protection of rule of law. The Constitutional governance should not allow people to lose faith in ***Satyamev Jayathe*** (the national motto which means truth alone triumphs) or ***Dharmo Rakshathi Rakshitah*** (You protect rule of law, it protects you). No public servant should be prosecuted for prosecuting corrupt babus or corrupt nethas for eating away huge public money.

34. What has been stated in historic report of N N Vohra in 1993, is being proved repeatedly. N N Vohra has drawn the following conclusions:-

(i) On the basis of the extensive experience gained by our various concerned intelligence, investigative and enforcement agencies, it is apparent that crime

Syndicates and Mafia organisations have established themselves in various parts of the country.

(ii) The various crime Syndicates /Mafia organisations have developed significant muscle and money power and established linkages with governmental functionaries, political leaders and others to be able to operate with impunity. (Para 10.1)

35. In this context, the Commission finds it relevant to reproduce the poem of bravery and honesty by the Poet Laureate, Vishwa Kavi, who penned national anthem, Rabindranath Tagore, more appropriately quoted in *Indian Medical Association vs. Union of India and others* [(2011) 7 SCC 179] to say that honesty should never be punished and corrupt rewarded:

Where the mind is without fear and the head is held high

Where knowledge is free

Where the world has not broken up

Into fragments by narrow domestic walls

Where words come out from the depth of truth

Where tireless striving stretches its arms towards perfection

Where the clear stream of reason has not lost its way

Onto the dreary desert sand of dead habit

Where the mind is led forward by thee

Into ever-widening thought and action

Into that heaven of freedom, my

Father, let my country awake.

***— Ravindranath Tagore** 1861-1941*

36. Supreme Court hoped and trusted “that a situation may never arise, where honesty is punished and corruption rewarded. Such a system cannot be expected to last for a long time.”

37. Thus Commission concludes

a) It is factually proved that appellant was put to extreme hardship by the corrupt political rulers and corrupt public servants in retaliation of his unstinted implementation of rule of law.

b) The gist of IB report as furnished by IB in response to the RTI request of appellant in this case shows that its disclosure could cause no harm to core activity of security or intelligence of IB.

c) Section 24 of RTI Act does not authorize the public authorities exempted under this section to block entire information held by it or generated and given to other public authorities enbloc, but it exclusion from disclosure is limited to that which pertains to core functioning of ‘security’ and ‘intelligence’ aspect of exempted organization.

d) The IB report sought by appellant is not the information excluded from purview of disclosure by RTI Act.

e) The IB report is information as per Section 2(f) held by MoEF and also information pertaining to the allegation of corruption or human rights violation as per Section 24 second proviso and hence certified copy of the same shall be given to the appellant.

f) The public authorities exempted under s 24 cannot use it to stonewall all RTI requests indiscriminately. The IB has a statutory duty to make all arrangements to provide the information other than that concerning ‘security’ and ‘intelligence’ if it pertains to corruption or human rights violation, or useful to prevent corruption or human rights violation, either under voluntary disclosure clauses or other provisions of RTI Act.

VII. DECISION:

38. The Commission approves that the copy of the IB report concerning the appellant, as sought by him is the information pertaining to allegations of corruption and human rights violations and thus shall be given to the appellant. Hence the Commission **directs** the IB or MoEF to provide certified copy of IB report relating to Mr. Sanjiv Chaturvedi, sought through RTI dated 05.12.2015 as soon as possible not beyond 6.5.2016. The Commission would like to bring it to the notice of two public authorities that the petitioner has every right under RTI Act to complain and the Commission has a duty to initiate penal proceedings against non-compliance of this order.

(M. Sridhar Acharyulu)
Information Commissioner

Authenticated true copy

(Babu Lal)
Deputy Registrar

Addresses of the parties:=

1. The Office of Director of Intelligence Bureau,
Ministry of Home Affairs, North Block,
New Delhi-110001

2. The CPIO under the RTI Act,

Government of India,

RTI Cell (Mr. R.S.Negi, Under Secretary/CPIO)

Ministry of Environment and Forests, Indira Paryavaran Bhavan,

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