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

+ W.P.(C) 8993/2017

DOMINIC SIMON

..... Petitioner

Through: Mr Jose Abraham and Mr B.
Mathews, Advocates.

versus

CENTRAL PUBLIC INFORMATION OFFICER

AND ANR.

..... Respondents

Through: Mr Saqib, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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31.01.2018

VIBHU BAKHRU, J

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 05.05.2017 (hereafter 'the impugned order') passed by the Central Information Commission (hereafter 'the CIC'), whereby the CIC has rejected the appeals preferred by the petitioner under Section 19(3) of the Right to Information Act, 2005 (hereafter 'the Act').

2. The petitioner also prays for an order: (i) declaring that "*the International Indian Schools in Saudi Arabia come under the purview of the RTI Act, 2005*"; and (ii) directing the respondents to disclose the information sought by the petitioner.

3. The petitioner was the Chairman of the Managing Committee of

the International Indian Schools, Saudi Arabia, which, the petitioner claims is a network of ten schools affiliated with the Central Board of Secondary Education (hereafter 'the CBSE'). The petitioner alleges that the said schools were being run and managed by the Embassy of India in the Kingdom of Saudi Arabia. The learned counsel for the petitioner states that he was compelled to resign from his post on the basis of certain allegations made by the unknown persons.

4. In the aforesaid context, the petitioner sent an e-mail dated 01.11.2015 to the Indian Embassy at Saudi Arabia seeking certain information. The said e-mail reads as under:

"Sir,

Kindly provide me copy of any complaints and it supporting documents received at the mission or any employees of the mission and any action taken report on such matters against the Chairman/managing Committee of International Indian Public School Riyadh from 01 - May-2015 Till Date.

regards"

5. The petitioner's request for information was declined by the Public Information Officer (PIO) of the Embassy of India on the ground that the International Indian Schools in the Kingdom of Saudi Arabia do not come under the purview of the Act and, therefore, cannot share the information as sought under the Act. The petitioner's appeal to the First Appellate Authority (hereafter 'the FAA') against denial of such information was also rejected by an order dated 04.01.2016.

6. Aggrieved by the order passed by the FAA, the petitioner preferred a second appeal under Section 19(3) of the Act, which was dismissed by the CIC vide the impugned order. The CIC held that the disclosure of official communications with the Saudi Government would impinge upon the friendly relations with the foreign country and, thus, the information sought by the petitioner was exempt under Section 8(1)(a) of the Act.

7. The respondent has filed a counter affidavit wherein it is affirmed that all the International Indian Schools in the Kingdom of Saudi Arabia are directly controlled by the Saudi Ministry of Education through a set of (i) Organizing Rules and (ii) the Charter of International Indian Schools in the Kingdom of Saudi Arabia. It is affirmed that since more than three million Indians are residing in the Kingdom of Saudi Arabia and education in Saudi Arabia is expensive, Saudi Arabian authorities have issued licences to run ten International Indian Schools, which are located in nine cities in the Kingdom of Saudi Arabia. These schools are affiliated to CBSE.

8. It is also affirmed that the Indian Embassy of the Indian Government does not shoulder any administrative or financial responsibility with regard to the said schools. It is stated that the said schools are run by financial contribution of the members of the Indian community. The schools are managed by a Higher Board (hereafter 'the HB') and the Managing Committee of the International Indian Schools in Saudi Arabia. It is stated that the Indian Ambassador to Saudi Arabia has been given the status of "Patron" as a special gesture

by the Saudi Authorities. It is stated that he has no effective role to play and his status as a patron is merely symbolic. Based on the aforesaid status, he is also a Member of the Managing Committee. It is stated that he can attend the meetings of the said Committee as an Observer but he has no voting right in the decisions of the said Committee. He also has a right to nominate a person to attend the meetings as an Observer in his place.

9. In view of the above, the Indian International Schools located in the Kingdom of Saudi Arabia cannot be considered as public authorities within the definition of Section 2(h) of the Act as they are neither controlled nor funded by an appropriate government.

10. The learned counsel for the petitioner has also referred to a circular issued by the Indian Embassy inviting applications for Members to be nominated to the Managing Committee, as well as certain press releases made by the Embassy of India. The said circular and the press releases do not advance the case of the petitioner as the Indian Ambassador's nominee also does not have any right to vote and merely acts as a nominee of the Indian Ambassador.

11. The learned counsel also referred to the Inspection Report by the CBSE, which states that the Managing Committee of the Schools is appointed by the Ambassador to oversee the functioning of the school. However, the said statement is clearly incorrect in view of the affidavit affirmed on behalf of the respondent.

12. The next question that falls for consideration is whether the

information sought for by the petitioner would be exempt from disclosure under Section 8(1)(a) of the Act as held by the CIC.

13. Section 8(1)(a) of the Act, reads as under:

“(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—

(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence.”

14. The petitioner has restricted his prayer for information to only seek any complaint made against him.

15. It is once clear that if the information as sought for by the petitioner is available with the Indian Embassy, the same is not covered under any of the provisions of Section 8(1)(a) of the Act. Plainly, the disclosure of the complaint made against the petitioner would not in any manner affect the sovereignty and integrity of India. It is also difficult to accept that it would prejudicially affect the security, strategic, scientific or economic interests of the State in any manner. There is also no material to indicate that such information would lead to an offence.

16. The CIC had observed that “*the disclosure of the embassy files relating to the official communication with Saudi Govt. will impinge upon the friendly relations with a foreign country*”. This observation is, plainly, unmerited. The question whether disclosure of any

communication with a Foreign State would adversely affect the relationship with that Foreign State would depend on the nature of the information and whether the same is expected to be treated as confidential.

17. This is a case where the petitioner claims that he had been compelled to resign on account of a complaint. Nothing has been brought on record which would indicate that this information, if available with the Indian Embassy at Saudi Arabia, is required to be kept confidential or would have a material bearing on the relationship of India with the Saudi Authorities. In view of the above, the impugned order to the extent that it rejects the petitioner's second appeal arising from his request for information made on 01.11.2015 (CIC/KY/A/2016/001204) is set aside.

18. The respondents are directed to disclose the complaints received against the petitioner provided that the same are available with the Indian Embassy at Saudi Arabia. It is clarified that the Indian Embassy is not required to take any steps to secure this information from other sources; in other words, the said complaint would be disclosed to the petitioner, only if the same is available with the Indian Embassy.

19. The petition is disposed of with the aforesaid directions.

VIBHU BAKHRU, J

JANUARY 31, 2018/MK