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

+ LPA 678/2018 & CM APPLs. 51156-59/2018

CENTRAL PUBLIC INFORMATION OFFICER Appellant

versus

M DINESH Respondent

+ LPA 680/2018 & CM APPLs. 51175-78/2018

CENTRAL PUBLIC INFORMATION OFFICER Appellant

versus

URMILESH KUMAR Respondent

Present: Mr. Rajesh Gogna, CGSC with Ms. Liu Gangmei &
Mr. Upendra Sai Perela, Advs. for appellant.
None for respondent.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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07.12.2018

CM APPLs. 51157/2018 & 51158/2018 *(both for exemption)* **in LPA 678/2018**

CM APPLs. 51176/2018 & 51177/2018 *(both for exemption)* **in LPA 680/2018**

Allowed, subject to just exceptions.

The applications stand disposed of.

**CM APPL. 51159/2018 (condonation of delay) in LPA 678/2018
CM APPL. 51178/2018 (condonation of delay) in LPA 680/2018**

In view of the reasons stated in the applications, delay in filing the appeals is condoned.

Both the applications stand disposed of.

**LPA 678/2018 & CM APPL. 51156/2018 (stay)
LPA 680/2018 & CM APPL. 51175/2018 (stay)**

1. Seeking exception to orders dated 24.07.2018 and 25.07.2018 passed by the writ court in W.P.(C) 7383/2018 and W.P.(C) 7712/2018, these appeals have been filed under Clause 10 of the Letters Patent by the Central Public Information Officer of the Bureau of Immigration/Intelligence Bureau *inter alia* contending that by virtue of Section 24 of the Right to Information Act, 2005 (hereafter referred to as “the RTI Act”), the organization of the appellant is excluded from the purview of the RTI Act and therefore the direction to disclose the information is unsustainable.
2. Facts in nutshell are that respondent Shri M. Dinesh in LPA 678/2018 was an IT employee working in a private company in Chennai. During the period 20.12.2013 to 28.03.2015 he was deployed by his employer to work in Abu Dhabi and Dubai. It is his grievance that while he was on such deployment a complaint against him was filed by one Mr. Selvam alleging that the respondent Shri M. Dinesh had physically threatened the complainant. An FIR in this case was also filed.
3. In the criminal proceedings, it is the defence of the respondent Shri M. Dinesh that the complaint filed by Mr. Selvam is wrong. On the dates in question when the alleged offensive act is said to have been undertaken, the respondent Shri M. Dinesh was on deployment in Abu

Dhabi and Dubai. However, as the endorsement to this effect in his passport was not clear, in order to establish his defence he sought a copy of the endorsement made in his passport from the Immigration Department under the RTI Act. The same has been denied to him on the ground that in view of Section 24(2) of the RTI Act, the provisions of the Act will not apply and therefore the information cannot be supplied, the same is the case of the respondent Shri Urmilesh Kumar in LPA 680/2018 being aggrieved by the endorsements made on his passport during his exit and entry into India from 15.12.2007 to 03.06.2009 as being not readable.

4. The learned writ court has held that the controversy in the matter with regard to applicability of the Act need not be gone into in the interest of justice. It is kept open to be considered in an appropriate case. Exercising its extraordinary jurisdiction under Article 226 of the Constitution of India, the learned writ court has held that the information sought for is only with regard to the stamping in the passport which was not clear and if such an information is supplied, it would assist the case of the respondents/petitioners in the criminal case and as their valuable right to defence is dependent on the same. It was said that the order passed by the Chief Information Commission (CIC) in directing to supply the information need not be interfered with. Accordingly, the learned writ court refused to exercise its jurisdiction but kept open the legal question with regard to interpretation of Section 24(2) of the Act and the proviso thereto.

5. In our considered view, in the peculiar facts and circumstances of these cases, when the information sought for and granted by the Central Information Commission (CIC) is only to assist the respondents in establishing their defence in the criminal case, the discretion exercised by

the learned writ court in the matter need not be interfered with when the same will cause any prejudice to the appellant organization as their right to seek protection of Section 24 of the Act still stands protected and preserved to be considered in an appropriate case.

6. Accordingly, finding no case for interference, we dispose of the appeals. The pending applications also stand disposed of.

CHIEF JUSTICE

V. KAMESWAR RAO, J

DECEMBER 07, 2018

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