

37.

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

+ W.P.(C) 11930/2009

A.M.ATTAR Petitioner
Through Ms. Nasreen Alam, Advocate.

versus

CENTRAL INFORMATION COMMISSIONER AND ORS.... Respondents
Through Nemo.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

% **ORDER**
24.09.2009

1. By order dated 5th March, 2008, Information Commissioner had passed the following directions:-

" 6.1. ... The Commission also sees no harm in providing the Appellant with a copy of the Agreement arrived at between the Government of India and the kingdom of Saudi Arabia as this is a public document. In case the Respondents have any problem in providing the Appellant a copy of it, they may revert back to the Commission and also the Appellant."

2. The respondent Ministry of External Affairs thereafter moved an application, which was disposed of vide order dated 26th May, 2008 recording as under:-

"The Commission partly accepts the submission of the Respondents and directs them to supply a copy of the Agreement to the Appellant after

applying Section 10 of the RTI-Act to the particular issue mentioned by him to the Commission. This may be done by 13 June 2008.”

3. The impugned order dated 26th May, 2008 has been passed without issue of notice and without hearing to the petitioner. The impugned order dated 26th May, 2008, therefore, cannot be sustained.

4. It may be noted that the petitioner has been repeatedly corresponding with the Central Information Commission and the respondents asking for copy of the agreement. The respondents have, on the other hand, taken the stand that agreement cannot be furnished in view of the order dated 26th May, 2008 and Section 8(1)(f) of the Right to Information Act, 2005. The impugned order dated 26th May, 2008 does not refer to Section 8(1)(f) or accept the contention of the respondent Ministry of External Affairs in this regard. The contention of the respondent Ministry of External Affairs or whether Section 8(1)(f) of the Right to Information Act, 2005 applies, has to be decided by the Information Commissioner and cannot be left to the Ministry to decide.

5. Accordingly, impugned order dated 26th May, 2008 is set aside and the matter is remanded back to the Information Commissioner to pass a fresh speaking order. The petitioner and the respondents are directed to appear before the Registrar, Central Information Commission on 22nd October, 2009 when date of hearing will be fixed.

The writ petition is accordingly disposed of.

SANJIV KHANNA, J.

SEPTEMBER 24, 2009
VKR