



**Right to Information and Good Governance**  
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**Lecture - 56**  
**Exempted Information - 10**

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Sec. 8(1)(h)

- Arun Jaitley v CBI 2006 CIC
- Applicant sought all documents, manuscripts and files pertaining to the de-freezing of Bank Account of Mr. Ottavio Quattrocchi (wanted by the Interpol vide Notice control No.A-44/2-1997) and his wife Mrs. Maria Quattrocchi.
- Was denied as it impedes the process of investigation and was *sub-judice*.
- Vihar Durve v CBI CIC 2019



Now again, coming to Section 8(1)(h), there are two very interesting cases that can be brought to your attention as examples about how the application of law on exempted information or information that are not supposed to be disclosed can actually be viewed from.

The first is a very interesting case filed by a former you know, Finance Minister, Late Shri Arun Jaitley. He filed a RTI petition to the Central Board of Investigation, CBI, in 2006, and please note, at that point of time, CBI was not an exempted organization under the RTI Act, under Section 24.

And a very interesting application that he made to the CBI because CBI was in charge of the Bofors Scandal, investigating the same, unfortunately, which has not come to any rightful conclusion. However, in 2006, there was a news that came about that the Government of India, through CBI had decided to de-freeze the accounts of Mr. Ottavio Quattrocchi and in this case, though you know there was an Interpol notice issued in 1997 to Mr. Quattrocchi and Mrs. Quattrocchi.

However, in 2006, because the investigation was not leading to any conclusion, the Government of India decided to de-freeze their accounts and the newspapers reported that the

very next day morning Mr. Quattrocchi withdrew huge sums of money from his London bank account.

Now, Arun Jaitley, who you know, was a prominent politician and a lawyer wanted to get documents about the files that were sent from the Government of India to the Government of UK so that such de-freezing of bank accounts can actually take place. So, the applicant sought all documents, manuscript, and file pertaining to the de-freezing of the bank account of Mr. Quattrocchi and Mrs. Quattrocchi.

Now, interestingly, the CBI in this case and successfully though denied the said information saying that the investigation is still ongoing and providing the said information may impede the process of an investigation and was a matter that was sub judice before the courts of law. And interestingly, I think the CIC upheld the contentions of the CBI and denied the said information to Mr. Arun Jaitley So that is again, a very interesting case in which one views the non-disclosure norm that is applicable under the Right to Information Act.

Now, we may all think and believe that the said information should have been provided, it is very important information and probably the said information is required in public interest; however, at this point of time, it may not be disclosed. So, I think, public interest is not something that can be judged randomly, it cannot be judged just because of the curiosity that the media and the people have. I think what is necessary is to balance different competing claims as they are.

Now, the competing claim over here is in non-disclosure of the said information as against disclosure of the same that was necessary for the media or the public to know. So, the CIC denied the said information to Mr. Arun Jaitley under Section 8(1)(h).

When I compare the Arun Jaitley case to a current scenario, there was an interesting application that was filed to the CBI by this gentleman called Vihar Durve. He filed this application and he asked for six points in his application to the CBI. And do we know what did he ask? He asked about the total legal expenditure and consultation fee that India has undertaken, both in India as well as abroad for the extradition of Mr. Vijay Mallya.

So, he wanted to know how much money has been spent on legal fee on Mr. Mallya because the extradition process is still ongoing, it is a long-down process, the Government of India has hired councils in the UK to get Mr. Mallya back. And you know, obviously, there is public money and public expenditure involved and hence, he just wanted to know the total expenditure. So, he asked six points but all were in relation to the same. And he asked CBI to disclose it because CBI is the agency that was involved in this process.

However, the Central Information Commissioner, in this case, he had to evaluate, this was Divya Prakash Sinha, he had to evaluate whether the CBI is liable to provide the said information or not.

Now, in this case, Mr. Mallya's case, as we all know, is a case of probably defrauding public banks and financial institutions in India and he is so-called liable to be held accountable for a fraud committed on the banking institutions in India. And it is alleged that Mr. Vijay Mallya, through his corrupt practices has duped Indian banks to the tune of nearly 9000 crore rupees, and hence, it is a matter of corruption. And being a matter of corruption, the said information should have been provided by the CBI is what was argued in this case.

However, I think the CIC very rightly said that the extradition process is still on, it is ongoing. And being an ongoing process, if any information is provided at this point of time, it would impede the process of extradition, and hence, applying the Section 8(1)(h), the CIC denied the said information as an interim order.

They said this is not a final order, it is only an interim order; we will wait for the extradition to get complete, probably, after that if Mr. Vihar Durve wants to get the said information from the CBI, then a re-evaluation of the same can take place and then probably, the information can be provided for.

However, they said as an interim measure, the said information should not be given. And yes, so I think, the CBI's concern, in this case, were adequately addressed and the CBI was not compelled from sharing the said information.

And I think it was rightly done so, protecting the interest of non-disclosure, which is very relevant at this point of time considering that the case of extradition is at a very crucial

juncture and if the information is leaked or provided under the Right to Information Act, it may adversely affect the extradition process is what the CBI defended successfully before the Central Information Commission.