

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

+ **LPA 95/2009 & C.M. No.2919/2009**

UOI ..... Appellant  
Through: Mr. P.P. Malhotra, ASG with  
Mr. Dalip Mehra, Advocate.

versus

CENTRAL INFORMATION COMMISSION & ANR.  
..... Respondents  
Through: Mr. Maninder Singh, Senior  
Advocate with Mr. Kirtiman Singh, Advocate.

**CORAM:**  
**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE NEERAJ KISHAN KAUL**

% **O R D E R**  
**05.05.2009**

1. The present appeal is preferred against the order of the learned Single Judge dated 18<sup>th</sup> December, 2008, whereby the learned Single Judge directed the appellant to supply a copy of the office rule/norms dated 15<sup>th</sup> June, 2004 to the respondent No. 2. Earlier writ petition had been filed being Writ Petition (Civil) No. 4187 of 2007 by the appellant challenging the order dated 7<sup>th</sup> May, 2007 passed by the Central Information Commission (in short 'CIC'), whereby the CIC had directed the appellant to produce documents/records before the CIC qua the process of appointment of the Foreign Secretary. An order was passed by this Court in the writ petition staying the operation of the said order of the CIC dated 7<sup>th</sup> May, 2007. As per the appellant, these documents are part of the Cabinet notes and being matters of State secrecy cannot be divulged to the respondent No. 2. Moreover, it is also the case of the appellant that the order of

the CIC dated 7<sup>th</sup> May, 2007 was under challenge in the writ petition and the operation of the same had been stayed by this Court. If that be the position, then as per the appellant, the learned Single Judge ought not to have directed supply of documents to the respondent No. 2 as prayed for by respondent No. 2 in its application. These very records, as per the appellant, had been called for by the CIC for its perusal and the said order had been stayed by this Court. In view of the same, as per the appellant, the learned Single Judge could not have directed that the said documents be supplied to respondent No. 2.

2. On the other hand, it is the contention of the learned senior counsel appearing on behalf of respondent No. 2 that the papers/documents which had been asked for by respondent No. 2 vide its application C.M. No. 12444 of 2008 in Writ Petition (Civil) No. 4187 of 2007 were office rules/norms dated 15<sup>th</sup> June, 2004 which were placed before the Central Administrative Tribunal (in short 'CAT') in O.A. No. 1045 of 2007 and had been specifically referred to in the judgment and order dated 21<sup>st</sup> August, 2007 passed by the CAT. Further it is contended on behalf of respondent No. 2 that the said documents did not form part of the Cabinet notes as contended by the appellant.

3. After some arguments, both the parties have fairly agreed to the matter being remanded back to the learned Single Judge. It is agreed by the parties that the learned Single Judge would decide all

the issues raised in the writ petition including the issue raised by respondent No. 2 in its application. The learned Single Judge would also decide the question whether the documents asked for by respondent No. 2 form part of the Cabinet papers/notes or not.

4. Accordingly, the matter is remanded back to the learned Single Judge for deciding all the issues raised in the writ petition as also in the application moved by respondent No. 2 as expeditiously as possible. The appeal is accordingly disposed of in the above stated terms. The pending application also stands disposed of.

**CHIEF JUSTICE**

**NEERAJ KISHAN KAUL, J.**

**MAY 05, 2009**  
**sb**