

Neeraj Agarwal vs Central Public Information Officer And ... on 22 February, 2023

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 13694/2022

NEERAJ AGARWAL

Through:

.....
Mr. Suresh Sharma, Adv

versus

CENTRAL PUBLIC INFORMATION

OFFICER AND ANR.

..... Respon

Through: Mr. Apoorv Kurup (CGSC) with Ms

Damini Garg GP and Ms. Nidhi

Mittal, Advocate. (M: 844797116

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% 22.02.2023

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by Neeraj Agarwal, who is an ex - DSP with the CBI alleging non implementation of the order passed by the Central Information Commission (hereinafter 'CIC') dated 8th June, 2022. By the said order, the CIC directed the disclosure of and partly allowed the RTI application filed by him. The Petitioner had filed an RTI application with the CPIO- Department of Personnel and Training (hereinafter 'DOPT') seeking the following information:-

"(i) The date and reference number under which proposal for the dismissal of Shri Neeraj Agarwal, DSP, CBI by invoking Rule 19 of the CCS(CCA) Rules 1965 was received by DOPT from CBI? A copy of the same may kindly be provided.

(ii) Whether the proposal was accompanied by documentary evidence on the basis of which the disciplinary authority could decide that the circumstances existed as on the date of approval of the proposal, by the disciplinary authority which made it reasonably not practicable to hold enquiry as envisaged in Rule 14 of the CSS(CCA) Rules, 1965? If not, kindly confirm it. If yes, kindly provide details of the same and also provide a copy of such documentary evidence.

(iii) Details of other documentary evidence presented before the disciplinary

authority to enable him to take a decision that it was not reasonably practicable to hold the statutory enquiry. Copies of the same may kindly be provided.

(iv) Copies of all the correspondence exchanged between CBI and DOPT starting from the receipt of the proposal as per (1) above and culminating in the issue of dismissal order No. 221/25/2017-AVD-II (B) dated 19.06.2018 may kindly be provided."

3. The operative portion of the CIC's decision is set out below:-

"The Commission based on a perusal of the facts on record observes that concededly the stand of the CPIO appears to be indefinite in as much as he has mentioned all probable reasons to deny the information, none of which justifies the square denial of the information. The fact that the dismissal order has already been issued in May, 2018 has not been disputed by the CPIO, at the same time, it is also not contested that the relevant records are held by DoPT irrespective of whether it concerns CBI or not. In other words, if it were the case that the relevant records are not held with DoPT but with the CBI only, the arguments in the context of Section 24 of the RTI Act would have been relevant.

Notwithstanding the foregoing observation, at the outset it is pertinent to assess the nature of the information sought for in the RTI Application and in doing so, it is observed that only points (i) and (iv) warrant action on merits as the information sought for at points (ii) & (iii) does not even conform to Section 2(f) of the RTI Act as the Appellant has raised speculative queries seeking interpretation by the CPIO. Now having considered the nature of the information sought for at points (i) & (iv), the square denial of the information citing Section 8(1)(g) of the RTI Act is far from convincing as the protection afforded to the life and physical safety of any person or to the source of information or to the assistance given in confidence for law enforcement or security purposes can be accommodated while also tending to the right to information of the Appellant by withholding such details of persons/source/assistance and parting with the remaining information by invoking Section 10 of the RTI Act.

In view of the foregoing, the Commission directs the CPIO to revisit points (i) & (iv) of the RTI Application and provide the information as available in the records of DoPT with the liberty of redacting the contents, disclosure of which may harm the life and physical safety of any person or the source of information or the assistance given in confidence for law enforcement or security purposes as envisaged under Section 8(1)(g) of the RTI Act. The severance of the records shall be carried out in consonance with Section 10 of the RTI Act. The information to be provided in compliance with this order shall be free of cost and the said directions should be complied with by the CPIO within 15 days from the date of receipt of this order under due intimation to the Commission.

The appeal is disposed of accordingly"

4. The case of the Petitioner is that he repeatedly approached the CIC in respect of the non-compliance of the said order by the DOPT and has not received the said information despite repeated complaints.

5. On the last date, the Petitioner was directed to clarify as to what was the information which he has not received.

6. Ms. Nidhi Mittal, Id. Counsel appearing for the DOPT submits that the entire information which was directed by CIC, consisting of 91 pages was sent to the Petitioner on 28th July, 2022. Upon receiving the non-compliance affidavit by the Petitioner, it was clarified that the same was provided already to the Petitioner once more. Thus, there is no non-compliance as alleged by the Petitioner.

7. A perusal of the compilation of documents which has been handed over by the Id. Counsel for the Respondent shows that on 28th July, 2022, a proper compliance has been reported by the DOPT to the CIC in the following terms:-

"i) The requisite proposal contained in CBI ID No.DPPERS.1/2017/1466/3/53/2014 dated 25.05.2017 was received in DoPT on 25.05.2017. A copy of the same is enclosed after severance/redaction as per the directions of the CIC.

iv)Requisite copies of the documents i.e. correspondence exchanged between CBI and DOPT on this issue (containing 91 pages) are enclosed after severance/redaction as per the directions of the CIC (Index of the documents being supplied is enclosed)."

8. The Index of 91 pages which is stated to have been sent to the Petitioner is also annexed with the writ petition. However, the Petitioner's case is that the said documents were not received. A perusal of the dispatch registers of the DOPT thus show that the dispatch has been effected. Again on 8th September, 2022 the said information along with 91 pages was forwarded once more through speed post. The delivery tracking report has also been placed on record to show the delivery of the said consignment on 12th September, 2022 at 15:22:21 hours.

9. In fact a perusal of the complaint written by the Petitioner to the CIC on 27th September, 2022 records as under:-

"The letter dated 28th July, 2022, and endorsement to the letter addressed to you has infact being found lying in the reception office of the Housing Society in which I reside on 23rd Sept., 2022, after the notice for the Writ Petition has been issued by the Hon'ble Delhi High Court.

The above details make it explicitly clear that the cock and bulls story of the information having been delivered to me before filing of the Writ Petition is just a futile attempt by the alleged contemnor namely, CPIO, Department of Personnel and

Training from the consequences of disciplinary proceedings and monetary fine by the Hon'ble High Court under the relevant provisions of RTI Act, 2005.

It is hoped that the office of the Registrar, CIC will not accept the version of the proposed contemnor as it is the majesty of the Central Information Commission which is at stake in non-compliance of the order dated 08th June, 2022 in CIC decision in 2nd Appeal No. CIC/DoP&T/A/ 2021/103018 and my submissions made about would be kept in view while the office of the Registrar, CIC files its counter reply to the Writ Petition for which a notice has already been issued by Hon'ble High Court of Delhi."

10. From the above discussion, it becomes apparent that the Respondent has dispatched the information twice to the Petitioner and thus, the allegations of non-compliance are completely not made out in this matter. However, in order to put an end to this controversy, ld. Counsel for the DOPT may obtain the Index along with 91 pages of documents and serve it upon the ld. Counsel for the Petitioner within a period of two weeks.

11. No other directions are called for. The compilation of documents handed over by the ld. counsel for the Respondent are taken on record.

12. With these above observations, the present petition with all pending applications, if any, is disposed of.

PRATHIBA M. SINGH, J.

FEBRUARY 22, 2023 mr/rp