

Ehtesham Qutubuddin Siddique vs Cpio, Ministry Of Home Affairs on 13 January, 2021

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) 10258/2020

EHTESHAM QUTUBUDDIN SIDDIQUE

Through: Mr. Arpit Bhargava, Ad
(M:9871316969)

versus

CPIO, MINISTRY OF HOME AFFAIRS

Through: Mr. Rahul Sharma and M
Bhatt, Advocates.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% 13.01.2021

1. This hearing has been done through video conferencing.
2. In the present case, the Petitioner is in judicial custody and is convicted in the Mumbai Bomb Blast case known as the 7/11 Bomb Blast of 2006. He was convicted under Section 235(2) of the Code of Criminal Procedure, 1973 and sentenced to death on 30th September, 2015 by the Special Judge, under Maharashtra Control of Organised Crime Act, 1999 and National Investigation Agency Act, 2008, Special Court No.1, Mumbai.
3. The confirmation proceedings are pending in the Bombay High Court. The Petitioner has filed an RTI application seeking two documents, which are as under:-

"a) True copy of the report/ dossier etc submitted by Maharashtra Government regarding investigation of 7/ 11 bomb blast case in the year 2006,

b) True copy of the report/dossier etc submitted by the then Andhra Pradesh Government in the year 2009 regarding investigation of Indian Mujahideen group related to 7/ 11 bomb blast case."

4. The request for providing the first document has been rejected by the authorities, after invoking Section 8(1)(a) of the Right to Information Act, 2005 (hereinafter "the Act"). Insofar as the second document is concerned, the same was rejected on the ground of unavailability. Thereafter, the Petitioner filed an appeal bearing No. 17011/10/2016/IS-VI(Part III) before the Joint Secretary (IS-I), First Appellate Authority, dated 9th August, 2017, under Section 19(1) of the Act, which was rejected. Finally, a second appeal, bearing Second Appeal No. CIC/MHOME/A/2017/166137 titled Ehtesham Qutubuddin Siddique v. CPIO, O/o Internal Security, Division -I(IS VI Desk), Ministry of Home Affairs, New Delhi, dated 31st July, 2019, was filed before the Central Information Commissioner (hereinafter the "CIC") under Section 19(3) of the Act, which has also been dismissed by the CIC. In the CIC's order, the justification given is that the requested documents cannot be provided in view of Sections 8(1)(h) and 8(1)(a) of the Act as also the fact that there are various other accused, including foreign nationals, who have to be arrested in this matter. Owing to this sensibility, the appeal was dismissed.

5. The Petitioner relies upon the judgment of this Court in W.P.(C) 9773/18 titled Ehtesham Qutubuddin Siddique v. CPIO, Intelligence Bureau to argue that the said judgment would completely cover the facts of this case. On the other hand, ld. counsel for the Respondent submits that there is a clear distinction between the said case and the present case.

6. Let counter affidavit be filed within two weeks. Rejoinder, thereto, if any, be filed within two weeks thereafter.

7. List for hearing on 24th March, 2021.

PRATHIBA M. SINGH, J.

JANUARY 13, 2021/MR/Ap