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

+ W.P.(C) 7863/2013

PRADEEP SINGH JADON

..... Petitioner

Through: Mr. Vaibhav Sharma and Mr. Ajayraj
Singh, Advocates

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Amit Mahajan, CGSC with Mr.
Krishanu Barua, Advocate for R-1
Mr. R.V. Sinha, Standing Counsel for R-2/CBI

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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02.02.2015

1. I have heard the learned counsel for the parties.
2. On the last date, Mr. Mahajan had sought time to obtain instructions in the matter. Mr. Mahajan says that since, counter affidavit has been filed on behalf of respondent no.1, he has received the instructions to resist the petition.
- 2.1 Mr. Sinha who appears for the CBI submits likewise.
3. I had sketched out the controversy in my previous order dated 12.01.2015. I do not intend to repeat the same. The relevant extract, that is, paragraphs 12 to 17 of that order, are set out hereinbelow, for the sake of convenience :-

“12. Briefly the case of the petitioner is that pursuant to RTI application moved for seeking information, the CIC vide order dated 08.11.2011, had granted relief.

12.1 The petitioner says that when an application was moved under Section 20 on account of non-compliance by the CPIO, the CIC vide order dated 16.03.2012 sought to modify its earlier order dated 08.11.2011. This is the order which is impugned in the amended petition, amongst others.

12.2 The records shows that, unfortunately, the petitioner instead of approaching this court started a second round of RTI proceeding. This culminated in the second impugned order being passed by the CIC, which is, dated 17.07.2013.

12.3 By this order, CIC ruled that it could not review its earlier order, in effect, order dated 16.03.2012.

13. In my view, while CIC is prima facie right in the view taken, in the second round, however it appears to have come to an erroneous conclusion when it passed the order dated 16.03.2012. The reason for the same is, simple; if CIC could not review the order dated 16.03.2012, it could not have similarly reviewed its earlier order dated 08.11.2011.

14. On merits, the controversy pertains to the information which the petitioner seeks from respondent no.1 pertaining to the change in view with regard to the grant of sanction. The department to which the petitioner belongs is, Department of Telecom (DOT). DOT vide order dated 24.02.2010 had declined sanction in respect of proceedings sought to be initiated against the petitioner under the Prevention of Corruption Act. DOT, however, reconsidered this position and accorded sanction for prosecution vide its order dated 19.4.2011.

14.1 The petitioner seeks information with regard to the change in view. The learned counsel for the petitioner on instructions of the petitioner, who is present in court, confines his prayer in the writ petition to this aspect of the matter.

14.2 It is not disputed by the counsel for the respondents that

prosecution of the petitioner has already commenced and that the trial is on.

15. At this stage, Mr. Mahajan, who appears for respondent no.1 seeks an accommodation to obtain necessary instructions in the matter. Mr. Sinha submits similarly.

16. List on 02.02.2015.

17. In case the respondents were so inclined as to resist the relief sought for by the petitioner, they shall file their affidavit within five (5) days from today...”

4. The learned counsel for the petitioner says that the only reason that the respondents seek to withhold the information sought for, which relates to the change of opinion, is, on account of the provisions of Section 8(1)(h) of the Right to Information Act, 2005. The learned counsel says that since investigation is over and chargesheet has been filed, unless the respondents are able to demonstrate : as to how, the provision of information sought for, would impede the prosecution of the petitioner, that information ought to be given. In this behalf, the learned counsel for the petitioner seeks to rely upon the following judgments of this court :-

(i). Judgment dated 05.03.2013, passed in WP(C) 7048/2011, titled : Sudhir Ranjan Senapati Vs. Union of India and Ors.; and (ii). Judgment dated 03.12.2007, passed in WP(C) 3114/2007, titled : Bhagat Singh Vs. Chief Information Commissioner and Ors.

5. I have asked both Mr. Mahajan and Mr. Sinha to demonstrate to the court as to how the information sought for by the petitioner will impede his prosecution. Quite frankly, Mr. Sinha, the learned counsel for the CBI, which is prosecuting the case, has not been able to demonstrate anything

which even comes close to an impediment.

6. Mr.Mahajan, however, says that since a counter affidavit has been filed and a stand has been taken therein, he has instructions not to take a contrary stand. This by itself does not carry the case of the first respondent any further.

7. Having regard to the aforesaid, I am of the opinion that there is nothing placed on record which would establish, even remotely, that the information sought for by the petitioner with regard to the change in view for according sanction would impede petitioner's prosecution.

7.1 I may only note that information sought for by the petitioner, as extracted in his application is, as follows :-

“..relevant pages [preceding 55/N, except 55/N (as it is already received under RTI)] of note-sheets of file No.9-9/2009-Vig.I, where CVC's 3rd advice dated 14.11.2010 was dealt and decided..”

8. Taking into account what is noticed hereinabove by me and the view taken by this court, in at least, two judgments, this writ petition will have to be allowed. It is ordered accordingly.

9. Notably, though, for some strange reason, the respondents do not wish to follow the law declared by the court. Repeated pronouncements by courts, qua the same issue not only take up valuable public time, but also, does not, augur well for the polity. All wings of the State are governed and bound by the rule of law. Adherence to court orders is must to enable a civilised society to subsist. Therefore, while allowing the petition, I am of the view that costs of Rs.5,000/- will have be imposed on the respondents. It is directed accordingly. Costs imposed shall be borne equally by both

respondents. The costs will be deposited with Registrar General, Juvenile Justice Account of Delhi High Court, within one week from today. The information referred to above will also be supplied to the petitioner within the same timeframe.

10. With the aforesaid directions in place, the writ petition is disposed of.

RAJIV SHAKDHER, J

FEBRUARY 02, 2015

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