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

+ W.P.(C) 61/2015 & CM No. 94/2015 (Stay)

HOLY FAMILY HOSPITAL

..... Petitioner

Through: Mr Gagan Mathur & Mr Varun Kumar,
Advs.

versus

CENTRAL INFORMATION COMMISSION & ORS. .. Respondents

Through: Ms Sana Ansari, Adv. for Ms Zubeda
Begum, Standing Counsel for R- 2 & 3.

Mr Keane Sardinha & Ms Ruchi Munjal, Advs. for
R-4.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **04.03.2015**

1. This is a writ petition, which is directed against the order dated 28.11.2014 passed by the Central Information Commission (hereinafter referred to as CIC). The CIC by the impugned order has directed the petitioner to provide the information sought by respondent no.4, upon following third party procedure, as provided in Section 11(1) of the Right to Information Act, 2005 (in short the RTI Act).

1.1 This direction, as is evident from paragraph 3 of the impugned order, was based on a letter dated 07.03.2014 dispatched by the Directorate of Health Services, Govt. of NCT of Delhi (in short the Directorate), to respondent no.4. The relevant contents of the letter are extracted hereinafter:

“.... With reference to your representation dated nil on the subject cited above.

I would like to inform that Holy Family Hospital vide its reply dated 26/12/2013 has informed that the information asked for by the applicant is of medico-legal in nature and the same cannot be provided till asked through a judicial court. Furthermore, there are also covered under the RTI Act 2005...”

(emphasis is mine)

2. As would be apparent, on reading the aforesaid extract, the Directorate adverted to two aspects in its communication to respondent no.4. First, that the information sought by him could not be given as it was medico-legal in nature, till such time, it was sought for by a court. Second, that the petitioner was covered under the RTI Act.

2.1 A careful perusal of the last line of the extract would show that, perhaps, what the Directorate intended to convey, was that, the petitioner was ‘not’ covered by the RTI Act. It appears, the word, ‘**not**’ somehow was not inserted in the relevant line of the said extract.

3. Resultantly, the petitioner was aggrieved, and, accordingly, it approached this court by way of the instant petition. Notice, in this petition, was issued by me, on 05.01.2015. Since then, all respondents have been served, including respondent no.1.

3.1 I may only indicate that, in the writ petition, a corrigendum issued by the Directorate, on 14.01.2015, has been included. The corrigendum seeks to correct the letter dated 07.03.2014. It is adverted to in the corrigendum dated 14.01.2015 that on account of a typographical error, the word, ‘**not**’ was inadvertently not included in the following line: “*Furthermore, there are also covered under the RTI Act 2005*”. The correct version, according to the Directorate, ought to read as: “*Furthermore, they are also **not** covered under the RTI Act 2005*”. This communication was also addressed to

respondent no.4.

4. In the writ petition preferred, qua the impugned order, several objections have been taken, in particular, objection that the petitioner is not a “*public authority*”.

4.1 As is obvious on a reading of the RTI Act that if, the petitioner is not a public authority, then the CIC would have no jurisdiction over the petitioner. This is an issue which the CIC needs to adjudicate upon and determine finally. The impugned order proceeded on the basis that the petitioner is a public authority, in view of the communication dated 07.03.2014. This communication has now stood corrected by a subsequent communication of the Directorate, dated 14.01.2015.

5. In these circumstances, the counsels are agreed that the order dated 28.11.2014 of the CIC be set aside and the matter be remanded to the CIC for a fresh determination. It is ordered accordingly. The impugned order is set aside. The CIC will re-hear the matter and determine all the issues arising therefrom. The CIC, will also grant time to the petitioner to file a response to the appeal preferred by respondent no.4. As and when the appeal is listed before the CIC, notices will be sent by the CIC to all parties, including respondent no.4, i.e., the complaint, and the petitioner before this court.

6. The petition and the application are, accordingly, disposed of.

7. Dasti.

RAJIV SHAKDHER, J

MARCH 04, 2015

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