

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

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Date of decision: 24th November, 2015

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W.P.(C) 10835/2015 & CM No.27876/2015 (for stay)

S.D. WINDLESH

..... Petitioner

Through: Petitioner-in-person.

Versus

**CENTRAL INFORMATION
COMMISSIONER & ORS.**

..... Respondents

Through: Mr. Devvrat, Adv. for R-2 & 3.

CORAM:-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. The petition impugns the order dated 9th June, 2015 of the respondent No.1 Central Information Commissioner (CIC) of disposal of the Second Appeal preferred by the petitioner. Axiomatically, the petition seeks a direction to the respondent No.3 Public Information Officer (PIO) of the Office of the Deputy Commissioner of Police, District North-East, Delhi to supply the information sought by the petitioner.
2. The petitioner, appearing in person, and the counsel for the respondents No.2&3 Police have been heard.
3. The petitioner vide his application dated 31st July, 2013 sought the following information from the respondent No.3 PIO:

- “1. Please provide the C/C of the guideline Issue on section 154 of the Cr.P.C. to SHO for registration of FIR for cognizable offence.
2. Please provide the No. Of the complaints (month wise) for the last ten years of the cognizable offence received by each police station.
3. Please provide the No. Of the FIRs registered (month wise) against these complaints.
4. Provide the C/C of the guidelines issued by the Commissioner of Police on the conduct of enquiry on these cognizable offences reported and the maximum time allowed to register the FIR after the enquiry.
5. Provide the direction of the C.P. on preventing the misuse of discretion of the SHO to register the FIR on reported cognizable offence.
6. Please provide the violation of 154 Cr.P.C. reported senior officers by the complainants (month wise) for the last ten years and the C/C of the detail of action taken against these SHO.
7. Provide the reason for not informing the complainants the fate of their complaints kept pending / not registered / filed and reasons for not informing them by speed post / Regd. post.”

4. The respondent No.3 PIO vide response dated 26th August, 2013 replied to the aforesaid application of the petitioner as under:

- “1. The copy of Sec. 154 of the Cr.P.C. is enclosed herewith.
- 2&3. As per report of all SHOs/ NED, no such record is being maintained separately and you have asked information about 10 years, which is very lengthy. Hence, you are hereby advised as per Section 4 (1)(d) (cost & regulation), you can inspect the relevant record of all Police Stations of North East District on payment basis for first hour free of cost & @ Rs.5/- per subsequent hour and correct the requisite information under RTI Act-2005 within one month from the date of issue of this memo, if so desire.
4. The copy of said circular vide which the inquiry is being conducted is enclosed herewith.
5. The copy of said guideline is enclosed herewith.
6. Such type of record is not being maintained separately.

7. This is an explanation / reason and seeking such type of information does not come under the purview of “information” as per Section 2(f) of RTI Act, 2005.

Your present RTI application is hereby disposed off.”

5. Aggrieved therefrom, the petitioner preferred a First Appeal under the Right to Information (RTI) Act, 2005 to the First Appellate Authority of the office of Additional Deputy Commissioner, district North-East and which appeal was disposed of vide order dated 20th September, 2013 observing that the petitioner had already been provided the information available as per record and by directing the PIO to provide point wise information as asked.

6. The petitioner aggrieved therefrom preferred a Second Appeal with the CIC and which has been disposed of by the impugned order dated 9th June, 2015.

7. The impugned order records that the petitioner is seeking on a month-wise basis, large volume of information on complaints, FIRs, and action taken thereon for the last 10 years; the month-wise information of complaints received during the last ten years is very lengthy, time consuming and requires diversion of manpower for preparation and compiling the same as the same is not readily available and no separate record is maintained; collating such information requires a deep scrutiny of

record at the Police Station level and sub-division level and requires a lot of compilation work; that if the information sought were to be given, it will occupy the police station for many weeks and their policing work will be affected very seriously. The petitioner was however given liberty to visit any police station of North-East District on any working day to inspect any available record under the provisions of the RTI Act and for which necessary directions had already been issued by the First Appellate Authority to all SHOs of the District and which opportunity the petitioner had not availed. The CIC therefore disposed of the Second Appeal reiterating the liberty given to the petitioner to inspect the available record in all the police stations of the district.

8. The petitioner, instead of availing of the said opportunity has filed this petition.

9. I have enquired from the petitioner appearing in person whether there is any Rule or other direction / Circular / provision requiring the information, as sought by the petitioner, being required to be maintained.

10. The petitioner states that though he is not aware of any Rule or Circular in this regard and which must be in the knowledge of the respondents themselves but from the factum of certain other police districts

from which also the same information was sought, having furnished the same to the petitioner assumes that information in such form is collated and kept by the police. The petitioner in this regard has drawn attention to the information received by him from the other district and contends that he supposes that information must be required to be maintained in the said form. He further contends that the respondents are avoiding to give the information inasmuch as the same would expose their non compliance of law and various directions given by the Courts from time to time.

11. I am unable to agree. The mere fact that some other districts may have, upon information being sought by the petitioner, furnished the same to the petitioner by diverting police personnel from policing duties to collating the said information, would not lead to the assumption, in the absence of any Rule or Requirement, of information being required to be kept in the said form.

12. In fact, upon it being enquired from the petitioner that since he claims to be an RTI activist, why does not he sit down in the police station, as an opportunity has been given to him, and collect the information from the records available, he himself states that it would take him minimum 30 days to do the same.

13. The purport of the RTI Act is not to put an additional burden on the public authorities to collate information in whatsoever form sought by the information seeker. The RTI Act provides for dissemination of information in two ways. One under Section 4 of the Act and the other under Section 6 of the Act. Section 4 of the Act requires the public authorities to put as much information possessed by them as possible in public domain so that the public have minimum resort to the use of the Act to obtain information. Section 6 of the Act provides the procedure for obtaining information which is not put in the public domain under Section 4 of the Act. The Division Bench of this Court in *Prem Lata Vs. Central Information Commission* MANU/DE/0540/2015 has held that information made available under Section 4 cannot be sought under Section 6. The obligation of the public authority under Section 4 of the Act has expressly been made subject to cost effectiveness and to the extent possible. Section 6 does not contain any such rider. However, that does not mean that under Section 6 of the Act, the authorities are required to do what they are otherwise not obliged under Section 4 of the Act. Under Section 6 of the Act only that information can be sought and supplied and which is maintained and available. Thus, once the respondents have taken a stand that the information as sought is not

maintained, the information seeker, to challenge the same has to necessarily show that the information as sought is required to be maintained.

14. Supreme Court in ***Central Board of Secondary Education Vs. Aditya Bandopadhyay*** (2011) 8 SCC 497 has held that the RTI Act provides access to all information that is available and existing; if a public authority has any information in the form of data or analysed data or abstracts or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act; but where the information sought is not part of the record of a public authority and where such information is not required to be maintained under any law or the Rules or Regulations of the public authority, the RTI Act does not cast an obligation upon the public authority to collect or collate such non-available information and then furnish it to an applicant.

15. There is considerable merit in the stand of the respondents that if they are required to collate information sought of 10 years from different records required to be maintained by them, they would have to divert a number of police personnel from police duties to collating such information. The RTI Act is a beneficial legislation and cannot be permitted to be misused / abused contrary to public interest. Supreme Court in ***Aditya Bandopadhyay*** supra has further held that indiscriminate and impractical demands or directions

under the RTI Act for disclosure of all and sundry information, unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption, would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. It was accordingly held that the right to access information does not extend beyond the period during which the public authority is required to maintain the information and that the CIC cannot require a public authority to preserve the information for any period larger than what is provided under the Rules and Regulations of the public authority.

16. Though the purpose of the petitioner may be laudatory, but the petitioner has to put himself to trouble for the same and cannot compel the public authorities to do under the Act what the Act does not mandate them to do.

17. The petitioner has contended that he requires the information to file a Public Interest Litigation in this Court to show that the police, inspite of being required by law and by judgments of the Courts to register FIR of cognizable offences reported, does not do so. I have put it to the petitioner that the appropriate remedy for the petitioner would be to, if entitled, seek a

direction first for maintenance of the information in the form in which the petitioner is seeking. In fact, the petitioner does not appear to have gone through the Rules also requiring the information to be maintained and the forms prescribed therefor and has not made out any case thereunder or challenged the said Rules.

18. No merit is thus found in the petition.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.

NOVEMBER 24, 2015
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