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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1580/2016 & CM APPL. 6835/2016

GURKIRPAL SINGH

Through

..... Petitioner

Mr. Danish A. Chowdhury with
 Mr. Amarendra Dubey and
 Mr. Sarpreet Singh Chawla,
 Advocates
 Petitioner in person.

versus

UNION OF INDIA & ORS.

Through

..... Respondents

Mr. Anurag Ahluwalia, CGSC with
 Mr. Brajesh Kumar, Advocate for
 R-1.
 Mr. Chandan Kumar with Mr. D.K.
 Pandey, Advocate for R-2 and 3.

CORAM:**HON'BLE MR. JUSTICE MANMOHAN****ORDER**

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26.02.2016

Present writ petition has been filed seeking a direction to respondent no. 3 to provide all information sought in the original RTI Application filed by the petitioner. Petitioner also challenges the order dated 5th February, 2015 passed by Central Information Commission [for short 'CIC'] whereby it had directed the respondent to file affidavits if information asked for was not supplied within three months.

Learned counsel for the petitioner states that though affidavits have been filed by the respondent stating that the concerned documents are still not traceable, yet they had not been filed within time. Learned counsel for the petitioner also submits that the said affidavits subsequently filed by the respondent are not in accord with the judgment of this Court in ***Union of India Vs. Vishwas Bhamburkar, 2013 ((297) E.L.T. 500 (Del.)*** wherein it has been held as under:-

“8. Since the Commission has the power to direct disclosure of information provided, it is not exempted from such disclosure, it would also have the jurisdiction to direct an inquiry into the matter wherever it is claimed by the PIO/CPIO that the information sought by the applicant is not traceable/ readily traceable/ currently traceable. Even in a case where the PIO/CPIO takes a plea that the information sought by the applicant was never available with the government but, the Commission on the basis of the material available to it forms a prima facie opinion that the said information was in fact available with the government, it would be justified in directing an inquiry by a responsible officer of the department/ office concerned, to again look into the matter rather deeply and verify whether such an information was actually available in the records of the government at some point of time or not. After all, it is quite possible that the required information may be located if a thorough search is made in which event, it could be possible to supply it to the applicant. Fear of disciplinary action, against the person responsible for loss of the information, will also work as a deterrence against the willful suppression of the information, by vested interests. It would also be open to the Commission, to make an inquiry itself instead of directing an inquiry by the department/ office concerned. Whether in a particular case, an inquiry ought to be made by the Commission or by the officer of the department/ office concerned is a matter to be decided by the Commission in the facts and circumstances of each such case.”

As the petitioner is not satisfied with the subsequent affidavits filed by the respondent, he is given liberty to raise its grievances before the CIC and to submit that the mandate of law has not been followed by the respondent.

With the aforesaid liberty, present writ petition and application stand disposed of.

MANMOHAN, J

FEBRUARY 26, 2016

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