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

+ **W.P.(C) 2796/2013**

ANIL DUTT SHARMA

..... Petitioner

Through: Mr. Rakesh Sachdeva for Mr. Anil
Dutt Sharma, Adv.

Versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Anil Soni, CGSC for UOI.
Mr. Jagdish Sagar, Adv. for R-4/EDMC.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

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17.10.2016

CM No 6602/2016 (for restoration) & C.M.No.6603/2016 (delay)

The main petition was dismissed on 22.04.2015 for non-prosecution. These two applications came to be filed for restoration of the writ petition after condoning the delay of 302 days in filing the application.

Having heard the learned counsel for both the parties, the delay is condoned and the order dated 22.04.2015 is hereby recalled. The writ petition is accordingly restored to file.

Both the applications are disposed of.

W.P. (C) No.2796/2013

1. This petition by way of public interest litigation has been filed alleging inaction on the part of the Public Information Officers and the Appellate Authorities designated by the respondents No. 2 to 8 under the Right to Information Act, 2005 (hereinafter referred to as the 'RTI Act') in complying with the provisions of the said Act and thus seeking various

directions to the respondents 2 to 8 to act in accordance with law and provide information in terms of the RTI Act.

2. It is pleaded in the writ petition that in pursuance of various applications filed by the petitioner before the Public Information Officers (for short 'PIOs') seeking information under the RTI Act, he received frivolous replies from PIOs and the appeals preferred by him were also dismissed by the Appellate Authorities in a mechanical manner by non-speaking orders. It is alleged that the PIOs designated by the respondents No.2 to 8 under the RTI Act declined to furnish the information making endorsements such as "no information is available on record", "information is not available in compiled form", "the applicant may inspect the available record" or "information sought is not covered under the purview of Section 2 of the RTI Act". It is contended that the said action of PIOs in declining to furnish the information without disclosing as to why the information is not available on record is in serious infringement of Section 4 of the RTI Act. It is alleged that the Appellate Authorities are also ignoring the statutory provisions and no speaking orders are being passed while dismissing the appeals.

3. It is further pleaded that though the petitioner made two complaints dated 30.11.2011 and 1.12.2012 requesting the Director of Ministry of Personnel, Public Grievances and Pensions Department as well as the Chief Information Commissioner to ensure proper implementation of the provisions of the RTI Act, they failed to respond. The petitioner therefore seeks directions to the Public Information Officers and the appellate authorities designated by the respondents No.2 to 8 under the RTI Act to act

in accordance with law and further to invoke the penal provisions under Section 20 of the RTI Act.

4. Counter affidavits have been filed on behalf of the respondents 1, 2 and 7 denying the allegations made in the writ petition.

5. Having heard the learned Counsel for both the parties, we do not find any justifiable reason to grant the relief as prayed for. As we could see the writ petition is based on the personal grievances of the petitioner and no case is made out to demonstrate that the petitioner is moving the process of law for the benefit of unrepresented or under-represented strata of the society. The RTI Act is a self contained code and in case of non-compliance of the provisions it is always open to the aggrieved party to avail the remedies provided under law. May be that the petitioner is of the view that more stringent provisions need to be inserted to achieve the object of the RTI Act, however, the law is well settled that this Court cannot re-write, re-cast or reframe the legislation. Even in case of a defect or an omission in the words used by the legislature, the Court cannot correct or make up the deficiency, but the Courts will only decide what the law is. [Vide.: - *Union of India & Anr. Vs. Deoki Nandan Aggarwal*, (1992) Suppl (1) SCC 323 and *Minerva Mills & Ors. Vs. Union of India & Ors*; (1980) 3 SCC 625]

6. In the light of the pleadings in the present petition, it appears to us that in case the petitioner is aggrieved by the action of the PIOs/Appellate Authorities designated by the respondents No.2 to 8, he should have challenged the alleged failure of the statutory authorities to act in accordance with the provisions of the law. Having failed to do so, the petitioner has chosen to file the present petition styling it as a Public Interest Litigation making sweeping allegations and seeking directions which are mostly

general in nature. As held in *Balco Employees Union (Regd.) vs. Union of India*, (2002) 2 SCC 333, every matter of public interest or curiosity cannot be the subject matter of PIL, but the petitioner must be able to show that the issue sought to be espoused needs adjudication for redressal of grievance of the people who are in disadvantaged position to approach the Court. None of the said contingencies arise in the present case.

7. The petition, therefore, does not deserve to be considered as a PIL. Even otherwise, we do not find any justifiable reason to grant the relief sought on the basis of the vague and unsubstantiated pleadings.

8. The writ petition is, accordingly, dismissed.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

OCTOBER 17, 2016
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