

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION Nos.36596 of 2017 and 37051 of 2017

COMMON ORDER:

W.P.No.36596 of 2017 is filed by the petitioner therein questioning the inaction of the Central Information Commission under Section 20 of the Right to Information Act, 2005 (for short “the Act”) against the Central Public Information Officer, DGMN (Admn.), BSNL, Office of the General Manager, E.G. SSA, Rajahmundry, East Godavari District in not implementing the order dt.19-06-2017 passed by the Central Information Commission directing the Central Public Information officer, DGM (Admn.), BSNL to furnish information to the petitioner.

2. W.P.No.37051 of 2017 is filed by the BSNL and the Central Public Officer, DGM (Admn.), BSNL, Rajahmundry, East Godavari District challenging the order dt.19-06-2017 of the Central Information Commission.

3. Admittedly, the petitioner in W.P.No.36596 of 2017 filed application under the Act on 01-04-2016 seeking copies of transportation bills received from him from 2008 to 2012, copies of PLB pipe material allocated to him during the said period, Route wise and Division wise, copies of minutes of meeting between himself and BSNL in the said period etc.

4. The Central Public Information Officer, DGM (Admn) of BSNL refused to furnish information quoting Section 8(1)(b) of the Act.

5. Petitioner in W.P.No.36596 of 2017 preferred an appeal against the said order to the Central Information Commission.

6. The Central Information Commission allowed the said appeal holding that the exemption provided under Section 8(1)(b) of the Act is not available to the BSNL as held by the Central Public Information Officer, DGM (Admn) and he cannot therefore refuse to furnish the information sought by the petitioner in W.P.No.36596 of 2017.

7. Petitioner in W.P.No.36596 of 2017 alleges non-implementation of the said order by the BSNL, while the BSNL alleges that the said order is wrong on the ground that there are disputes between the petitioner in W.P.No.36596 of 2017 and BSNL, which are subject matter of a Civil Miscellaneous Appeal in this Court, that the matter is *subjudice* and therefore information need not be furnished by the BSNL.

8. Section 8(1)(b) of the Act prohibits information expressly forbidden to be published by any Court of law or Tribunal. When there is no such Court order prohibiting information sought by petitioner in W.P.No.36596 of 2017, clearly Section 8(1)(b) of the Act is not attracted.

9. Learned counsel for BSNL raised a further contention, which was not raised before the Central Information Commission that

information sought is not available with it. Since this plea was never raised before the Central Information Commission or before the Central Public Information Officer of the BSNL by it, such a contention cannot be allowed to be raised for the first time in this Court.

10. Therefore, I see no merit in W.P.No.37051 of 2017. It is accordingly dismissed at the stage of admission. No costs.

11. Consequently, W.P.No.36596 of 2017 shall stand allowed; the inaction of the Central Information Commission in taking action against the Central Public Information Officer, DGM (Admn), BSNL under Section 20 of the Act for not implementing the order dt.19-06-2017 of the Central Information Commission is deprecated and direction is issued to the Central Information Commission, New Delhi to take action against the Central Public Information Officer, DGM (Admn), BSNL for not implementing its order dt.19-06-2017. This exercise shall be completed by Central Information Commission within two (02) months from the date of receipt of copy of the order. No costs.

12. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 07-11-2017
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