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

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Judgment delivered on: 14.02.2017

+ W.P.(C) 652/2016 & CM No. 2723/2016

BAR COUNCIL OF DELHI

..... Petitioner

versus

CENTRAL INFORMATION COMMISSION
AND ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr. Arvind Nigam, Sr. Adv. with Mr. Uttam Datt, Mr. Tarun Sharma
and Mr. Mikhil Sharda, Advocates

For the Respondents : None.

**CORAM:-
HON'BLE MR JUSTICE SANJEEV SACHDEVA**

JUDGEMENT

SANJEEV SACHDEVA, J (ORAL)

1. The petitioner impugns orders dated 11.08.2015 and 01.12.2015 passed by the Central Information Commission directing that the details sought by respondent no. 2 be put in public domain voluntarily as per Section 4(1)(b) of the Right to Information Act, 2005 (hereinafter referred to as the Act). Further, the Commission by order dated 11.08.2015 issued a show cause notice to the PIO as to why the penalty be not imposed for denying the information. By

impugned order dated 01.12.2015, another opportunity was granted to CPIO to explain as to why penalty should not be imposed upon him for not providing the information and not complying with the commission's order of uploading the entire information on the website.

2. The respondent no. 2 by her application (filed on 02.03.2015) under the Act, had inter-alia, sought the following information:-

- “ 1. Please supply me certified copies of all the minutes of all full house meetings of Bar Council of Delhi held during the period 01.04.2010 till date.*
- 2. Please give information regarding the sources of income of Bar Council of Delhi and total amount received from different sources during the period 01.04.2010 till date.*
- 3. Please give information regarding the total accumulations of funds existing with Bar Council of Delhi as on date i.e. 02.03.2015.”*

4. Learned Senior Counsel for the petitioner contends that the information with regard to the minutes of full house meetings of the Bar Council of Delhi contained confidential and personal information of third parties. It is contended that all decisions taken by Bar Council in the full house meetings cannot be disclosed under the Act. The Bar Council conducts disciplinary proceedings under the Advocates Act, 1961 against the Advocates and deals with several complaints from time to time. The disciplinary proceedings pertain to

third parties and may contain third party information, disclosure of which, is exempted under the Act. Further, Bar Council deals with the application received from various Advocates seeking monetary help on basis of their health conditions. It is submitted that the said minutes also contained personal information about the Advocates who seek financial aid on medical grounds and disclosure of such information is also exempted under the Act.

5. It is further submitted that in so far as the information relating to accounts is concerned, whatever information was available with the petitioner, the petitioner immediately furnished the same vide its reply dated 01.04.2015 to the application which was received on 02.03.2015. It was also mentioned in the said reply that as an audit was being conducted and it was not possible to immediately supply the complete financial information to respondent no. 2 pursuant to the application.

6. None appears for the respondent No. 2. None was present on 18.03.2016, 11.07.2016 and 21.11.2016. Though respondent no. 2 was earlier represented by a counsel, none has been appearing for the said respondents for the last several dates and even today. Learned Senior Counsel for the petitioner submits that, under orders of this court, the entire information has already been furnished to respondent no. 2.

7. By the impugned order, the CIC held that the minutes of the full house of the Bar Council should be disclosed and put in public domain and also on the website of the Bar Council. Perusal of the queries made in the application filed by respondent no. 2 show that what is sought is disclosure of the minutes of all meetings of Bar Council. It is this information which has been directed to be put in public domain. The CIC, clearly fell in error in issuing the direction of putting all such information in public domain.

8. The minutes of the full house of the Bar Council, would not only contain information qua the Bar Council but also contain information of personal character.

9. The Advocates Act, 1961 stipulates that a State Bar Council has to perform the following functions:

“6. Functions of State Bar Councils. — (1) The functions of a State Bar Council shall be—

- (a) to admit persons as advocates on its roll;*
- (b) to prepare and maintain such roll;*
- (c) to entertain and determine cases of misconduct against advocates on its roll;*
- (d) to safeguard the rights, privileges and interests of advocates on its roll;*
- (dd) to promote the growth of Bar Associations for the purposes of effective implementation of the welfare schemes referred to in clause (a) of sub-section (2)*

of this section clause (a) of sub-section (2) of section 7;

- (e) to promote and support law reform;*
- (ee) to conduct seminars and organise talks on legal topics by eminent jurists and publish journals and paper of legal interest;*
- (eee) to organise legal aid to the poor in the prescribed manner;*
- (f) to manage and invest the funds of the Bar Council;*
- (g) to provide for the election of its members;*
- (gg) to visit and inspect Universities in accordance with the directions given under clause (i) of sub-section (1) of section 7;*
- (h) to perform all other functions conferred on it by or under this Act;*
- (i) to do all other things necessary for discharging the aforesaid functions.*

(2) A State Bar Council may constitute one or more funds in the prescribed manner for the purpose of—

- (a) giving financial assistance to organise welfare schemes for the indigent, disabled or other advocates;*
- (b) giving legal aid or advice in accordance with the rules made in this behalf;*
- (c) establishing law libraries.*

(3) A State Bar Council may receive any grants, donations, gifts or benefactions for all or any of the purposes specified in subsection (2) which shall be

credited to the appropriate fund or funds constituted under that sub-section.”

10. Under section 6 of the Advocates Act, 1961, a State Bar Council has to perform several functions. Decisions in discharge of various function are taken in the Council meetings. In addition the Bar Council also exercises disciplinary powers conferred on it under section 36 of the Advocates Act.

11. Perusal of section 6 and also section 36 shows that in its meetings, apart from general function and information, a State Bar Council would be discussing confidential personal matters of advocates. Personal and confidential issues would come up before the Bar Council for consideration. Putting all the minutes in public domain and on the website would imply making public the confidential personal information and also information received by Bar Council in fiduciary capacity.

12. The minutes would also contain personal information about Advocates who seek financial help on medical ground which would clearly be personal information of the third party. Such information clearly cannot be put in public domain.

13. Section 12 of the Advocates Act reads as under:

“12. Accounts and audit.— (1) Every Bar Council shall cause to be maintained such books of accounts and other books in such form and in such manner as may be prescribed.

(2) The accounts of a Bar Council shall be audited by auditors duly qualified to act as auditors of companies under

the Companies Act, 1956 (1 of 1956), at such times and in such manner as may be prescribed.

(3) As soon as may be practicable at the end of each financial year, but not later than the 31st day of December of the year next following, a State Bar Council shall send a copy of its accounts together with a copy of the report of the auditors thereon to the Bar Council of India and shall cause the same to be published in the Official Gazette.

(4) As soon as may be practicable at the end of each financial year, but not later than the 31st day of December of the year next following, the Bar Council of India shall send a copy of its accounts together with a copy of the report of the auditors thereon to the Central Government and shall cause the same to be published in the Gazette of India.”

14. Under section 12, the accounts of the State Bar Council are to be audited and the State Bar Council is obliged to send a copy of the accounts along with the report of the auditor to the Bar Council of India and also cause the same to be published in the Official Gazette. By publication in the official gazette, the accounts of a State Bar Council, come in public domain.

15. Further it may be noticed that the impugned order does not contain any reasons based on which the CIC formed an opinion that the information was required to be put in public domain and on the website.

16. However, if any person is desirous of seeking any particular information, which is not exempted under the Act, he/she is always free to file an application under the Act, seeking disclosure of such

information and on receipt of such an application, the Bar Council would have dealt with the same in accordance with the Act.

17. With regard to the show cause notices issued, by the CIC, to the CPIO, for delay in furnishing information, it is noticed that the CPIO had responded to the application filed by Respondent No. 2 within the period of 30 days. The Response itself indicates that whatever information was available, was provided. The CPIO in his reply to the Central Information Commission has indicated that voluminous records had been sought by the respondent no. 2. Respondent No. 2 had sought minutes of full house meetings for the period 01.04.2010 till date of the application which was nearly five years.

18. Apart from contending that the information was exempt, the CPIO in his reply to CIC had relied on the decision of the High Court of Judicature at Bombay in “***State Information Commissioner Vs. Tushar Dhananjya Mandlekar***, LPA No. 276 of 2012”, whereby the High Court has held that where the required information is general, vague and voluminous in nature, the parties cannot be expected to be provided the required information within 30 days.

19. In the present case also the Respondent No. 2 had sought general and voluminous information i.e. records of all meetings for a period of 5 years.

20. The stand of the Petitioner is that under orders of this court, without prejudice, the entire information has already been provided

to respondent no. 2. That seems to be the reason as to why respondent no. 2 is not appearing. Respondent no. 2 does not appear to be any longer interested in defending the matter.

21. In view of the above, the impugned orders dated 11.08.2015 and 01.12.2015 are quashed. Further, the proceedings initiated by the CIC, requiring the Petitioner to show cause as to why action be not taken for delay in furnishing information are also quashed. The Writ petition is disposed of accordingly.

FEBRUARY 14, 2017
‘rs’

SANJEEV SACHDEVA, J

