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

+ **W.P.(C) 349/2015 & CM Appln. No.554/2015**

NATIONAL HUMAN RIGHTS COMMISSION Petitioner

Through: Ms. Shobha and Ms. Joyshree
Barman, Advocates.

versus

CENTRAL INFORMATION COMMISSION
& ANR.

..... Respondents

Through: Mr. Feblin Mathew, Advocate for R2.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER
12.09.2017

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VIBHU BAKHRU, J

1. The petitioner (hereafter 'the NHRC') has filed the present petition, *inter alia*, impugning the order dated 04.12.2014 (hereafter 'the impugned order') passed by the Central Information Commission (CIC).

2. By the impugned order, the CIC had disposed of the second appeal preferred by respondent no.2 under section 19(3) of the Right to Information Act, 2005 (hereafter 'the Act') by directing the NHRC to provide a complete and categorical information to respondent no.2, as requested in his application filed under the Act.

3. Respondent No.2 had filed an application dated 28.02.2011, *inter alia*, seeking the following information:

“1. Photostat copies on the detail status on the action of NHRC, New Delhi, on the File No. 197/18/5/2011, may kindly be furnished.

2. Photostat copies on the detail status on the action of NHRC, New Delhi, on the File No.64/18/5/2011, may kindly be furnished.

3. Photostat copies on the detail status on the action on Lr. Dtd.9.2.2011 of the undersigned (P/c End.) by the concerned authority on or after receiving of the said Ltr. Dtd.9.2.2011; vide; File No. 64/18/5/2011, may kindly be furnished.”

4. In response to the aforesaid application, the Public Information Officer (PIO) of the NHRC sent a letter dated 14.03.2011, forwarding a note, *inter alia*, stating as under:

“2. In this context, it is to inform that Case No. 197/18/5/2011 was registered on complaint dated 20/01/2011 received through Sh. Siba Sankar Patro, Human Rights Defender in respect of Sushant Kumar Sahu & Trinath Sahu. The Commission after considering the matter on 17/02/2011 and directed to transmit the complaint to the concerned authority for such action as deemed appropriate. Accordingly complaint was transmitted to The Secretary, Ministry of Finance, Insurance Division, Govt, of India, North Block, New Delhi vide Commission's letter dated 18/02/2011 (Copy enclosed) and the complainant/applicant was also informed accordingly.

As regard Case No. 64/18/5/2011 is concerned , it is to inform that the same was registered on the complaint of the applicant dated 29/12/2010 regarding inaction by SP, Berhampur Police, Orissa. The Commission after considering the matter on 12/01/2011 and directed to

transmit the complaint to the concerned authority for such action as deemed appropriate. Accordingly complaint was transmitted to The Director General Of Police, Govt, of Orissa, Bhubaneswar vide Commission's letter dated 15/01/2011 (Copy enclosed) and the complainant/applicant was also informed accordingly.

Since the complaints were transmitted to the concerned authorities for taking further action in the matter, no other report/information is available with the Commission.”

5. It is apparent from the above that the NHRC had unequivocally communicated to respondent No.2 that it had not acted on his complaints, but had forwarded the same to the concerned authorities - Ministry of Finance and the DG, Beharampur, Orissa.

6. Respondent No.2 filed an appeal before the First Appellate Authority (hereafter 'FAA') on 21.03.2011, however, that was also not successful and, was disposed of by an order dated 05.05.2011, passed by the FAA. Aggrieved by the same, respondent No.2 preferred a second appeal before the CIC.

7. A plain reading of the impugned order indicates that the CIC proceeded on completely erroneous premise that the respondent's RTI application was transmitted to the Finance Ministry and DG, Beharampur Police, Orissa, and, NHRC had not provided information as sought for by the respondent no.2. The examination of the facts and record indicates to the contrary.

8. The information sought by respondent no.2 was with regard to the action taken by NHRC in respect of his complaints. Undisputedly, the only action taken by NHRC was to forward the complaints to the concerned authorities (Finance Ministry and DG, Beharampur Police, Orissa). The letters, under the cover of which the said complaints were forwarded to the authorities, were also marked to the respondent. Thus, respondent was fully aware as to how his complaints had been dealt with by NHRC. In the event the respondent required any further information as to how the said complaints had been dealt with by the concerned authorities, the apposite course would have been for the respondent to approach the concerned authorities under the Act.

9. In the aforesaid circumstances, the present petition is allowed and the impugned order is set aside with liberty to the respondent No.2 to approach the concerned authorities under the Act.

SEPTEMBER 12, 2017
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VIBHU BAKHRU, J