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

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Judgment delivered on: 17.03.2017

+ W.P.(C) 4867/2016 & CM No. 20306/2016

JAMIA HAMDARD UNIVERSITY

..... Petitioner

versus

**PROF M SRIDHAR ARCARYULU (MADABHUSHI SRIDAR)
INFORMATION COMMISSIONER AND ANR**

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Ekta Sikri with Mr. Vikalp Mudgal, Advocates

For the Respondent: None for Respondent no. 3

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

17.03.2017

SANJEEV SACHDEVA, J. (ORAL)

1. None appears for respondent no. 3 despite service.
2. The petitioner seeks quashing of the order dated 04.05.2016 whereby the CIC has held that there appears to be a genuine grievance of non-payment of bills after execution of the contracted work. Further the CIC has issued a show cause notice to the CPIO to show cause as to why maximum penalty be not imposed for not providing complete information and has required the Registrar and the Vice-

Chancellor to address the grievances raised by Mr. Arshad Malik (Respondent No. 3) and report to the Commission about the action taken. The order records that the non-compliance of the order would lead to penalty proceedings under Section 20 of the Right to Information Act, 2005 (hereinafter referred to as the 'Act').

3. The application seeking information was filed by one Mr. Khan Zulfiqar Khan & Associates on 16.03.2015. On 13.04.2015 the requisite information was provided to the applicant therein. It is contended that despite the supply of the information, the applicant - Mr. Khan Zulfiqar Khan made an application to the CIC about the alleged non supply of information.

4. On 04.05.2016, the date when the impugned order was passed, the CIC has noticed that the complainant was represented by Mr. Arshad Malik, Adv. The order records that Mr. Arshad Malik was representing the complainant. Mr. Arshad Malik was stated to be a contractor and he wanted to know about the payment details. It is recorded in the order that the University was not paying him and he was demanding payment for the last four years.

5. The relevant paras of the impugned order dated 04.05.2016 are as follows:

"3. It is complained that the CPIO did not respond to RTI application. Mr. Samad Rafiq Khan, PIO of Jamia Hamdard University has furnished the information on 13.04.2015. He has also presented a despatch proof. The

complainant requested for the detailed information. Mr. Arshad Malik who represented the complainant stated that he was the contractor and he wanted to know the payment details. He claimed that the university was not paying him, and that he was demanding payment for the last four years, that was cause to come in RTI. The CPIO stated that in spite of several demands, the contractor did not submit the work order and hence payment could not be made. Mr. Arshad Malik stated that he executed work of HIMSAR building on oral instructions spending Rupees Thirty Lakh. The CPIO claimed that his grievance is being considered by duly constituted committee.

4. The Commission directs respondent authority to provide the copy of the report along with action taken on his grievance within one month. There appears a genuine grievance of non-payment of bills after the execution of the contracted work.

5. The Commission directs the past CPIO Mr. Samad Rafiq Khan and Mr. M.G. Vinod Kumar present CPIO to show cause why maximum penalty should not be imposed against them for not providing complete information, before 27.05.2016. The Commission requires the Registrar of the university Dr. Firdose Ahmad Wani and Vice Chancellor, Dr. G. N. Qazi to address the grievance raised by Mr. Arshad Malik in this case and report to the Commission about action taken by 27.05.2016. Non-compliance of this order will lead to penalty proceeding under Section 20 of RTI Act."

(underlining supplied)

6. The impugned order shows that the Commission heard Mr. Arshad Malik/Respondent No. 3 (the representative of information

seeker) with regard to his claim about non-payment of his dues. The Commission thereafter directed that a copy of the report along with action taken on the grievance of Mr. Arshad Malik be produced before the Commission. The Commission has recorded that there appears to be a genuine grievance of non-payment of bills after the execution of the contracted work.

7. It is in these circumstances, as noticed above, that the Commission has directed the CPIOs to show cause as to why the maximum penalty be not imposed against them for not providing complete information and has directed the Registrar and the Vice-Chancellor of the petitioner – University to redress the grievance raised by Mr. Arshad Malik and report compliance to the Commission.

8. It is settled proposition of law that the Act deals with information. The CIC has to act within the four corners of the Act. The responsibility of the CIC under the Act is to ensure that the information that is sought is provided expeditiously in terms of the provisions of the Act. The CIC has not been conferred any right beyond the powers conferred under the Act. In the instant case, the CIC seems to have gone into the issue of alleged non-payment of the bill of Mr. Arshad Malik, the representative of the information seeker. The observation of the CIC that this appears to be a grievance of non-payment of the bills after execution of the contracted work and the direction given to the Registrar and the Vice-Chancellor to address the

grievances raised by Mr. Arshad Malik who was appearing as representative is clearly have nothing to do with the application by Mr. Khan Zulfiqar Khan seeking information.

9. The directions issued are clearly beyond the powers conferred upon the CIC under the Act and have got nothing to do with the information sought by Mr. Khan Zulfiqar Khan (applicant) under the Act.

10. Further, the contention of the petitioner is that the information was duly provided to the applicant on 13.04.2015 in response to the application received on 16.03.2015 which was within a period of one month of the receipt of the application.

11. In view of the above, I am of the view that the directions given in the impugned order can clearly not be sustained. The CIC has acted beyond the mandate of the Act and has transcended the scope of the Act.

12. In view of the above, the impugned order dated 04.05.2016, is quashed. No orders as to cost.

13. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

March 17, 2017
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