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

+ **W.P.(C) 5636/2016 and CM No. 23383/2016**

UNION OF INDIA AND ANR

..... Petitioners

Through: Mr Jasmeet Singh, CSGC with Mr
Srivats Kaushal and Mrs Astha
Sharma, Advocates for UOI.

versus

CENTRAL INFORMATION COMMISSION
AND ANR

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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23.11.2017

1. The petitioner (Union of India) has filed the present petition, *inter alia*, impugning an order dated 12.03.2016 (hereafter 'the impugned order') passed by the Central Information Commission (hereafter 'CIC'). By the impugned order, the CIC has declared "*the Ministers in the Union Government and all State Governments as 'public authorities' under Section 2(h) of Right to Information Act, 2005*".

2. The CIC has further issued directions to Central and State Governments to provide the necessary support to each Minister including designating some officers or appointing the said officers as Public Information Officers and First Appellate Authorities. The CIC has also directed that Ministers be given an official website for *suo moto* disclosure of information with periodical updating as prescribed under Section 4 of the Right to Information Act, 2005 (hereafter 'the Act'). The CIC has also

recommended that the oath of secrecy which is required to be taken by the Ministers be replaced with the oath of transparency.

3. Briefly stated, the relevant facts are that respondent no.2 filed an application dated 20.11.2014 before the Additional Private Secretary, Minister of Law and Justice, Government of India seeking the following information:-

“Time period of Hon'ble Minister or Minister of State's meeting the General Public has not been issued by the Ministry. If issued, its details and time to provide in Hindi and English language.”

4. Since the information as sought was not received, respondent no.2 filed an appeal dated 02.01.2015 under Section 19(1) of the Act. Thereafter, the Central Public Information Officer (hereafter 'CPIO') sent a response dated 16.01.2015 informing respondent no.2 that *“No specific time has been given for the meeting of General Public with the Hon'ble Minister. However, as and when requests are received appointments are given subject to the convenience of the Hon'ble Minister”*.

5. Respondent no.2 filed a second appeal under Section 19(3) of the Act on 14.04.2015. The principal grievance of respondent no.2 was that he had not received the information sought for within the specified time and, therefore, prayed that certain action be taken against the concerned CPIO under Section 20(1) of the Act.

6. The CIC listed the aforesaid appeal for hearing on 29.02.2016. However, none appeared for either of the parties. Notwithstanding the

same, the CIC framed the following questions for his consideration:

“a) Is Minister or his office a ‘public authority’ under the RTI Act?

b) Whether a citizen has right to information sought, and does the minister has corresponding obligation to give?”

7. After framing the aforesaid questions, the CIC deliberated upon the same at length and held that the Ministers in the Union Government and/or State Governments are ‘public authorities’ within the meaning of section 2(h) of the Act. The CIC also issued several directions to the Central or State Governments to provide necessary support to each Minister including designating officers as Public Information Officers and First Appellate Authorities, by providing official website for *suo moto* disclosure of information; and, for periodical updating of such information.

8. This Court finds it difficult to understand as to how the questions as framed by the CIC arise in the appeal preferred by respondent no.2. The information as sought for by respondent no.2 was provided to him and there was no dispute that he was entitled to such information. The only grievance voiced by respondent no.2 was regarding the delay in providing him with the information as sought by him. Thus, the only prayer made by respondent no.2 before the CIC was that action be taken against CPIO and the First Appellate Authority under the provisions of the Act.

9. In these circumstances, there was no occasion for the CIC to enter upon the question as to whether a Minister is a ‘public authority’ under Section 2(h) of the Act. Further, directions issued by the CIC are also wholly outside the scope of the matter before CIC.

10. In view of the above, the impugned order dated 12.03.2016 cannot be sustained and is, accordingly, set aside.

11. The petition and the application are disposed of.

VIBHU BAKHRU, J

NOVEMBER 23, 2017
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