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

+ W.P.(C) 6186/2016

DINESH CHAND

..... Petitioner

Through

Mr. Mukul Gupta, Sr. Adv. with
Dr. Rakesh Gosain, Mr. Vibhor Garg,
Mr. Tushar Gupta and Mr. Sumit
Kumar Mishra, Advocates

versus

ABHA

..... Respondent

Through

None

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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20.07.2017

1. The petitioner, who was, at the material time, the CPIO of National Board of Examinations (hereafter 'NBE') has filed the present petition challenging the order dated 04.07.2016 passed by the Central Information Commission (CIC) whereby a penalty of Rs.10,000/- has been imposed on the petitioner.
2. The petitioner had returned an application filed by respondent under the Right to Information Act, 2005 (hereafter 'the Act') on the ground that it was not accompanied with the requisite fees in favour of "National Board of Examinations".
3. The respondent had filed the application along with the Postal Order drawn in favour of "*Accounts Officer, National Board of Examinations*". The difficulty faced by the petitioner was that NBE did not maintain any

bank account in favour of the Accounts Officer, National Board of Examination and the only bank account being maintained for the purpose by NBE was in its own name, that is, 'National Board of Examinations'. Accordingly, the petitioner had returned the application moved by the respondent with a request that the requisite fees be paid in the manner specified and the postal order be submitted in favour of "National Board of Examinations" and not the 'Accounts Officer, National Board of Examinations'.

4. Concededly, this was contrary to the view taken by the Full Bench of the CIC in its order dated 25.08.2015. This was also contrary to the Office Memorandum No.F.10/9/2008IR dated 05.12.2008 issued by DoPT. There is now no dispute that the petitioner was required to accept the Postal Order as furnished by the respondent along with her RTI application.

5. Thus, the only question that is required to be answered is whether the refusal of the petitioner to do so was without any reasonable cause warranting imposition of a penalty under Section 20 of the Act.

6. Before proceeding to answer this question, it would be necessary to bear in mind that the penalty as contemplated under Section 20 of the Act is a personal penalty, which is to be recovered from the CPIO personally and not from the Public Authority. Thus, it would be a relevant consideration whether the cause on account of which the information had been denied was attributable to the organization (the Public authority) or on account of a default committed by the CPIO. In the present case, it is apparent that since NBE did not have a bank account in the name of 'Accounts Officer, National Board of Examinations', the petitioner was in genuine difficulty in

accepting the requisite fees. Further, this Court also does not find that there was any malintent on the part of the petitioner as the petitioner had subsequently, without payment of the requisite fees, furnished the required information to the respondent.

7. The explanation furnished by the petitioner before the CIC that the Public Authority, that is, NBE did not have a bank account in the name of 'Accounts Officer, National Board of Examinations' was not examined by the CIC and it would have been apposite for CIC to do so before directing a punitive measure against the petitioner.

8. In the circumstances, the present petition is allowed and the impugned order dated 04.07.2016 of CIC is set aside to the extent of imposition of penalty on the petitioner. It is clarified that the decision of the CIC that a CPIO/PIO is bound to accept the fees in the name of 'Accounts Officer' of the Public Authority does not require any interference.

9. The petition is disposed of in the above terms. All pending application also stands disposed of.

VIBHU BAKHRU, J

JULY 20, 2017

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