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

+ **W.P.(C) 5585/2015 & CM No.10041/2015**

ANJALI SETH

..... Petitioner

Through: Mr Lalit Gupta with Mr Deepak
Agarwal, Advocates.

versus

**CENTRAL INFORMATION COMMISSION
AND ORS.**

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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10.08.2017

VIBHU BAKHRU, J

1. None for the respondents. Notice in this petition was issued on 29.05.2015 and four weeks' time was granted to the respondents to file the counter affidavit. On 06.05.2016, a final opportunity was granted to the respondents to file the counter affidavit within a period of one week from that date and it was clarified that failing the same, their right to file the counter affidavit would stand closed. However despite sufficient time, no such counter affidavit was filed to oppose the present petition. In the circumstances, this Court did not consider it apposite to defer the hearing and the petition has been heard in the absence of any representation on behalf of the respondents.

2. The petitioner has filed the present petition, *inter alia*, impugning an

order dated 11.03.2015 (hereafter 'the impugned order') passed by the Central Information Commission (hereinafter 'the CIC'). The petitioner claims that a plot bearing Municipal no.5, Feroz Gandhi Marg, Lajpat Nagar-III, New Delhi was allotted to the petitioner's grandmother, Smt. Raj Kumari Seth. There is some dispute as to the said allotment because the said plot was also allotted to another person. In the aforesaid context, the petitioner required certain information regarding the said allotment and, therefore, filed an application dated 27.05.2014 under the Right to Information Act, 2005 (hereafter 'the Act') with respondent no.3. By way of the said application, the petitioner requested for the following information:-

- “a) Kindly provide all the related documents/details on record of L&DO pertaining to allotment made, lease executed, applications made, annexures submitted, enclosures submitted, copies of office notings, decisions taken, orders passed, receipts issued, payment received/made etc. with regard to Plot bearing Municipal No.5, Feroz Gandhi Marg, Lajpat Nagar-III, New Delhi.
- b) Kindly provide complete file containing all the related documents/details on record of L&DO including the record of settlement Commissioner, L&DO, Nirman Bhawan, New Delhi pertaining to any proceedings taken up with regard to Plot bearing Municipal No.5, Feroz Gandhi Marg, Lajpat Nagar-III, New Delhi.
- c) Kindly intimate as to what is the current status of Plot bearing Municipal No.5, Feroz Gandhi Marg, Lajpat Nagar-III, New Delhi.

- d) Kindly intimate who is presently in possession of Plot bearing Municipal No.5, Feroz Gandhi Marg, Lajpat Nagar-III, New Delhi.”

3. The petitioner also sought inspection of the relevant records. The respondent no.3 (hereafter 'the CPIO') responded to the petitioner's request by a letter dated 18.06.2014 denying the petitioner's request for inspection of the files and information sought by her. The only reason provided by the CPIO for denial of information was that it was not conclusively established as to who was the rightful owner of the property in question.

4. Aggrieved by the aforesaid decision, the petitioner preferred an appeal under Section 19 of the Act before the First Appellate Authority (FAA). The FAA rejected the said appeal by an order dated 18.09.2014 by observing that *“there is no reason to interfere with the reply given by CPIO”*.

5. Aggrieved by the same, the petitioner preferred a second appeal under Section 19(3) of the Act before the CIC. The said appeal was also dismissed by the impugned order. The operative part of the impugned order reads as under:-

“2. The Commission heard the submissions made by Shri Lalit Gupta, Learned Advocate, on behalf of appellant, at length. The Commission also perused the case-file thoroughly; specifically, nature of issues raised by the appellant in her RTI application dated 27.05.2014, respondent's response dated 18.06.2014, FAA's order dated 18.09.2014, respondent's response dated 10.03.2015 and also the grounds of memorandum of second appeal.

3. In view of the position above and in the circumstances of the case, the Commission is of the considered view that the respondents have provided the required information to the appellant in terms of Section 2(f) of the RTI Act 2005. In view of this, the Commission feels that the appellant's second appeal becomes redundant in this regard. Thus, the appellant's second appeal deserves to be dismissed. Therefore, it is dismissed.

The Appeal is dismissed accordingly.”

6. It is apparent that the CIC has failed to apply its mind to the controversy in question. It appears that the impugned order has been passed in complete ignorance of the facts of the present case and on the basis of a template available with the CIC. The petitioner had provided the necessary grounds for contesting the decision of the CPIO to deny the inspection and information sought by her. She had provided cogent reasons to canvass that the information as sought for by the petitioner was not exempt from disclosure. CIC was required to examine the same and deal with the contentions advanced by the petitioner.

7. The endeavour of the petitioner was to seek information with regard to allotment of the said property in question, considering that there is a controversy regarding the allotment of the property. In this context, such information could not be denied on the ground that it was not established whether the petitioner's grandmother was the rightful owner of the property in question.

8. In view of the above, the impugned order is set aside and the matter is remanded to the CIC to consider the petitioner's application and pass a reasoned order within a period of eight weeks from today. The aforesaid

time frame would be strictly adhered to as considerable time has already been spent by the petitioner in pursuing her request.

9. The petition and the pending application are disposed of with the aforesaid directions.

10. Order *dasti* under signatures of the Court Master.

AUGUST 10, 2017
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VIBHU BAKHRU, J

