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

+ W.P.(C) 5220/2017 & CM No. 22184/2017

SHER SINGH RAWAT

..... Petitioner

Through: Mr Suhail Sehgal and Mr
Purushottam, Advocates.

versus

CHIEF INFORMATION COMMISSION & ORS Respondents

Through: Mr Keshav Mohan and Mr Piyush
Chaudhary, Advocates for EPFO.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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29.08.2017

1. The petitioner is a director of a company, Multiserve India Private Limited, and has filed the present petition, impugning an order dated 17.05.2017, passed by the Central Information Commissioner (hereafter 'the CIC') whereby the petitioner's appeal against the order dated 18.04.2016, passed by the First Appellate Authority (hereafter 'the FAA') was rejected.
2. The petitioner had filed an application dated 07.01.2016, under the Right to Information Act, 2005 (hereafter 'the Act') seeking certain information (on 15 points) from the Public Information Officer (PIO) of respondent no.3, Employees Provident Fund Organisation (EPFO). Although the petitioner had filed the said application in his individual capacity, the information concerned proceedings regarding Multiserve India Private Limited. It is also relevant to mention that Multiserve India Private

Limited had also filed an application for information, which was denied, *inter alia*, on the ground that the provisions of the Act were not available to incorporated companies.

3. Since no response was received from the PIO, the petitioner sent a reminder and was subsequently provided certain information sought by the petitioner at point no.1 and point no.10 of his RTI application. The petitioner, thereafter, preferred an appeal before the FAA, which was disposed of by an order dated 18.04.2016. The FAA observed that the CPIO had furnished available information in respect of point nos.1, 3, 7, 8 and 10. However, no information was sent by him in respect of point nos. 2, 4 and 11 to 15 on the plea that the same pertains to Administration but the petitioner's application had not been forwarded to the concerned authority/CPIO in respect of such information, and this was a serious lapse. The FAA further directed the CPIO (Assistant PF Commissioner (Administration)-I) to furnish available information to the petitioner against point nos.2, 4, 11 and 12 to 15 without any further delay. The information sought at point no.9 was denied as the FAA was of the view that the same was not clear.

4. Aggrieved by denial of certain information as desired by the petitioner at point nos.3, 7, 8 & 9, the petitioner preferred a second appeal under Section 19(3) of the Act before the CIC. The said appeal was disposed of by the impugned order.

5. A bare perusal of the impugned order indicates that the CIC has misdirected himself by examining the provisions of Employees' Provident

Funds and Miscellaneous Provisions Act, 1952 (hereafter 'EPF Act'), and has also engaged himself in dwelling into whether there were any violations of the EPF Act on the part of Multiserve India Private Limited. The said exercise is wholly outside the jurisdiction of the CIC. The CIC was merely to examine whether the information sought for by the petitioner ought to have been made available under the Act or, whether it was exempted under any provisions of the Act.

6. It is also seen that the CIC had concluded that although the information as sought by the petitioner was in individual capacity, but he was a director of Multiserve India Pvt. Ltd. and, the information sought by the petitioner was for the benefit of that company. Having concluded the above, the CIC held that that since the petitioner was a Director, he was not entitled to any information as sought by him as information under the act was available only to a citizen of this country. The CIC had further held that since the information being sought by the petitioner is for the purposes of defending legal proceedings instituted for the benefit of the workmen, the petitioner should be denied such information.

7. This Court is of the view that the CIC completely misdirected itself in proceedings to distinguish between a citizen, and a citizen who is a director of a company. A citizen is not required to give any reasons for the information sought from a public authority unless such information is otherwise exempt from disclosure and is available only if the information seeker satisfies the PIO/competent authority that such disclosure is in a larger public interest. No such consideration is involved in the information sought by the petitioner; thus, the CIC was required to only examine

whether the denial of the information sought was justified as being exempt from disclosure under the Act.

8. The learned counsel for respondent no.3 has also pointed out that the CIC has further directed the EPFO "*to report the Commission what action was initiated against the management for legal remedies including demand for damages for obstructing the proceedings of public authority and the result of Section 7C proceedings before 9th June, 2017.*" This is also wholly without jurisdiction.

9. The CIC has also held that the information could also be denied to the petitioner under clause (h) of section 8(1) of the Act; that is, that information would impede the process of investigation or apprehension or prosecution of offenders. The court does not find any substance in this finding as well. There is no indication as to which investigation would be impeded and how the disclosure would impede prosecution of alleged offenders.

10. In the circumstances, the petition is allowed and the impugned order is set aside. The CIC is directed to examine the petitioner's appeal in accordance with law and pass a reasoned order within a period of twelve weeks from today.

VIBHU BAKHRU, J

AUGUST 29, 2017
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