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

+ W.P.(C) 7486/2017

NEERAJ PANT

..... Petitioner

Through: Mr Vishal K. Panwar, Advocate.

versus

PUBLIC WORK DEPARTMENT AND ANR Respondents

Through: Mr D. Rajeshwar Rao, Advocate for
R-1.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **28.08.2017**

1. Issue notice. The learned counsel for the respondents accepts notice.
2. The petitioner has filed the present petition, *inter alia*, praying that the respondents be directed to provide the information which was sought for by the petitioner in his application under the Right to Information Act, 2005 (hereafter 'the Act').
3. The petitioner filed the aforesaid application on 21.03.2016, which reads as under:-

“To,
The CPM (other project)
13th Floor, MSO Building,
IP Estate, Delhi – 110002

Sub:- INFORMATION UNDER RTI ACT, 2005.

Sir,

Office (other phase-I) under your office, which under construction in DDU Marg, all documents concerned to aforementioned construction work, which mentioned quality of construction work and solid proof of completing constructing work as per the norms of C.P.W.D., inspite of the same inspection of all accounts documents etc. concerned to the favour of labours is made from applicants as per RTI Act, 2005.

PO No. 32F 233771

Thanks
Applicants
Neeraj Pant &
Rashid Khan A – 146,
Indrapuri, PO Loni,
Distt. Ghaziabad (UP) –
2011102.”

4. The petitioner did not receive any response to the said application and, therefore, filed an appeal before the First Appellate Authority (FAA) on 03.05.2016. In response thereto the petitioner received a letter calling upon the petitioner for a meeting on 19.05.2016 and on that date an order was passed, which reads as under:-

“for inspection the records related to his RTI questions till 07.06.2016, under intimation to this office”.

5. It is the petitioner’s case that despite orders passed by the FAA, no inspection has been granted to the petitioner.

6. In the aforesaid circumstances, the petitioner preferred an application dated 16.03.2017 (styled as application under Section 20 of the RTI Act, 2005), *inter alia*, praying for the information sought as well as for a necessary action under Section 20 of the Act.

7. The said application was treated as a second appeal under Section 19(3) of the Act and the same has been rejected by the CIC, *inter alia*, on the ground that the appeal/complaint was not filed within the prescribed time. The CIC also pointed out that the appeal was not in conformity with the Rule 8 of the Right to Information Rules, 2012.

8. The learned counsel for the petitioner submits that there was no delay in filing the appeal as the order of the FAA was rendered on 25.01.2017 and the second appeal before the CIC was filed within the specified period of 90 days from the date of the FAA's order.

9. The petitioner cannot be aggrieved by the order of the FAA as it had directed inspection of files sought by the petitioner. The petitioner's essential grievance is on account of CIC not taking any action against the CPIO for not providing information in compliance with the order passed by the FAA.

10. In the circumstances, the application filed by the petitioner before the CIC ought to have been considered as a complaint under Section 18 of the Act, and not as a second appeal even though further prayers for providing information had been made in the said application.

11. 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 as a complaint under Section 18 of the Act and to impose penalty under Section 20 of the Act, if warranted, after due inquiry.

12. The respondent is also directed to comply with the order of the FAA within a period of four weeks from today. It is clarified that the petitioner

would also be entitled to seek copies of documents inspection of which is granted to the petitioner, *albeit* on payment of costs.

13. No further orders are required to be passed in this petition and the same is, accordingly, disposed of.

14. Order *dasti*.

VIBHU BAKHRU, J

AUGUST 28, 2017
MK