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

+ W.P.(C) 849/2016

YOGESH MAHAJAN

..... Petitioner

Through: Petitioner in person.

versus

CENTRAL INFORMATION COMMISSION
& ORS

..... Respondents

Through: Mr R. N. Singh, Mr A. S. Singh and
Mr Amit Sinha, Advocates for R-1 &
R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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16.02.2018

CM No.6137/2018

1. For the reasons stated in the application, the delay in filing the counter affidavit is condoned.
2. The application is disposed of.

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3. The petitioner has filed the present petition, *inter alia*, impugning an order dated 15.12.2015 (hereafter 'the impugned order') passed by the Central Information Commission (hereafter 'the CIC'), whereby the petitioner's Second Appeal preferred under Section 19(3) of the Right to Information Act, 2005 (hereafter 'the Act') has been rejected.
4. A plain reading of the impugned order indicates that the CIC had proceeded on the basis that the information as sought for by the petitioner

and as available on record had been provided to the petitioner and, therefore, no further action was required in the matter. The CIC had also observed that by an order dated 31.12.2014, the First Appellate Authority (FAA) had upheld the contention of the Public Information Officer (PIO) of AIIMS that all the information as available on record was provided to the petitioner.

5. The petitioner, who appears in person, has drawn the attention of this Court to the FAA's order dated 31.12.2014. The same indicates that it is not an order disposing of the petitioner appeal under section 19 of the Act, but a letter issued by the Assistant Administrative Officer transferring the petitioner's First Appeal under Section 19 of the Act to the FAA, Legal Cell, AIIMS. The said letter does not uphold any contention that the information as sought for by the petitioner was provided to him.

6. Thus, it is apparent that the CIC proceeded on an erroneous assumption that the information as sought for by the petitioner had been furnished to him and that the same had been upheld by the FAA. The petitioner was not present before the CIC and, therefore, could not point out the said error.

7. In view of the above, this Court considers it apposite to set aside the impugned order and remand the matter to the CIC to consider the appeal after hearing the concerned parties. It is so directed.

8. The petition is disposed of in the above terms.

VIBHU BAKHRU, J

FEBRUARY 16, 2018
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