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

+ W.P.(C) 7382/2011 and CM Appln. No.16730/2011

**PREM LATA, CPIO TRADE MARKS REGISTRY**

**DELHI**

..... Petitioner

Through Ms. Kiran Suri, Sr. Advocate with  
Mr. Purvesh Buttan and Mr. Fahad  
Imtiaz, Advocates.

versus

**M/S ARORA REGISTRATION SERVICE AND  
ORS**

..... Respondents

Through Mr. Gaurav Arora and Mr. Himanshu  
Arora, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

% **21.08.2018**

1. The petitioner has filed the present petition impugning the order dated 26.07.2011 (hereafter 'the impugned order') passed by the Central Information Commission (hereafter 'the CIC'), *inter alia*, imposing a penalty of ₹25,000/- on the petitioner for failure to respond to the queries raised by respondent no.1 within the prescribed time. The petitioner also impugns an order dated 06.09.2011 passed by the CIC rejecting the petition seeking review of the impugned order.

2. It is the petitioner's case that the information sought for by respondent no.1 was otherwise available on the website of the Trade Marks Registry and, therefore, the petitioner was not obliged to respond to the request for information made by respondent no.1 under the Right to Information Act, 2005. The petitioner had further claimed that there are specific rules under which such information could be obtained. In addition, the petitioner has

also claimed that she had responded to the application made by respondent no.1. The CIC did not examine all the aforesaid contentions. The CIC found that the petitioner was unable to produce any evidence to show that she had responded to the RTI request within the time prescribed. In view of this finding, the CIC proceeded to impose penalty of ₹25,000/- on account of delay of more than 100 days in furnishing the information as sought by respondent no.1. The said amount was to be recovered in five monthly instalments of ₹5000/- each.

3. This Court is informed that ₹10,000/- has already been recovered from the petitioner.

4. The learned counsel appearing for the petitioner has relied on the decision of the Division Bench of this Court in case of ***Prem Lata, CPIO, Trade Marks Registry, Delhi v. Central Information Commission & Ors.: LPA No.444/2012, decided on 27.02.2015***, where, in the similar facts, the Division Bench had set aside the order passed by CIC as well as the order of the learned Single Judge sustaining that decision. A plain reading of the said decision indicates that the facts involved in the said matter were almost identical to the facts in the present case.

5. It is also seen that the CIC has not considered the petitioner's contention that the information as sought for by respondent no.1 was available on the website of the Trade Marks Registry.

6. In view of the above, the impugned order dated 26.07.2011 and the order dated 06.09.2011 cannot be sustained and the same are accordingly set aside. It is further directed that the amount of ₹10,000/- deducted from the petitioner's salary shall be refunded to the petitioner within a period of four weeks from today.

7. This Court is also not persuaded to accept that the matter requires to be remanded to the CIC principally for two reasons. First, the petitioner has already superannuated from her employment. It is also seen that the present matter has been pending in this Court since 2011 and this Court does not consider it apposite that the penalty proceedings should continue after several years. Secondly, it is pointed out that a review petition against the judgement dated 27.02.2015 in *Prem Lata, CPIO, Trade Marks Registry, Delhi v. Central Information Commission & Ors* (*supra*) was preferred by the respondents therein to contest the petitioner's claim that the information as sought for by respondent no.1 had been put on the website of the Trade Marks Registry. The Division Bench had rejected the review petition on the ground that the said contention had, in fact, not been considered by the CIC and, therefore, the said order could not be sustained. It is noteworthy that the Division Bench did not consider it apposite to remand the matter to CIC.
8. The learned counsel for the respondents earnestly contended that the respondents would suffer if the matter is not remanded. This contention is unsustainable. It is the respondents' case that the information as sought for was received, albeit after a delay by more than 100 days. The petitioner does not benefit in any manner on account of penalty imposed on the petitioner.
9. The petition is allowed in the above terms. The pending application is also disposed of.

**VIBHU BAKHRU, J**

**AUGUST 21, 2018**  
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