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

+ **W.P.(C) 10772/2018**

CENTRAL ELECTRONICS LIMITED

..... Petitioner

Through: Mr Kirti Uppal, Sr. Advocate with Mr
Kunal Sharma, Mr Shubhender and
Mr Aditya Awasthi, Advocates.

versus

ASTITVA AND ANR.

..... Respondents

Through: Mr Vivek Goyal, CGSC for R-1 & R-
2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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09.10.2018

CM No.42006/2018

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

CM Nos. 42004/2018 & 42005/2018

3. Allowed, subject to all just exceptions.

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4. The petitioner has filed the present petition, *inter alia*, impugning an order dated 20.02.2018 passed by the Central Information Commission (CIC). Mr Uppal, learned senior counsel appearing for the petitioner has restricted the challenge to the said order only to the extent that the CIC had directed the petitioner to pursue action against the persons responsible for

threatening respondent no.1.

5. The learned counsel appearing for the petitioner confirms that a copy of the petition was served on the respondents in advance. However, none is present on behalf of respondent no.1 despite the above. In view of the limited scope of the challenge to the impugned order and the settled law on the subject, this Court does not consider it apposite to await any representation on behalf of respondent no.1.

6. Respondent no.1 had filed an application dated 06.09.2017 under the Right to Information Act, 2005 (hereafter 'the RTI Act') seeking certain information including information relating to the Fact Finding Report, submitted by the Fact Finding Committee constituted to examine certain allegations. The Central Public Information Officer (CPIO) of the petitioner rejected the petitioner's request on 04.10.2017.

7. Aggrieved by the same, respondent no.1 filed an appeal on 05.10.2017 before the First Appellate Authority (FAA) under Section 19 of the RTI Act. On 24.10.2017, the FAA passed an order directing the CPIO to provide a revised reply.

8. On 06.11.2017, the CPIO furnished a revised reply, *inter alia*, stating that the Fact Finding Committee was constituted to submit a report to the Cabinet Secretariat and the decision on the report was awaited and, hence, the information as sought could not be supplied in terms of Section 8(1)(i) of the RTI Act.

9. Aggrieved by the same, respondent no.1 preferred a second appeal

under Section 19(3) of the RTI Act, which was disposed of by the impugned order. While the said application was pending, two officers of the petitioner visited the premises of respondent no.1 on 06.02.2018. Respondent no.1 claims that the same was to threaten and intimidate him. He also claims that telephonic threats were also issued to him not to appear before the CIC. The petitioner, on the other hand, claims that two officers were sent to enquire whether respondent no.1 was an individual or that the RTI application was filed by a fictitious person or an entity other than an individual.

10. By the impugned order, the CIC had directed that the information as sought by respondent no.1 be disclosed to him, subject to certain redaction. The petitioner is not pressing the challenge to the said direction. The petitioner has limited the challenge only to the direction issued by the CIC in Paragraph 17 of the impugned order, which reads as under:-

“17. The Commission takes a serious view of the alleged threats to the appellant asking him not to attend hearing before the Commission, and directs the public authority to pursue action against the persons responsible for threatening the appellant.”

11. Clearly, the aforesaid directions are outside the scope of jurisdiction of the CIC while considering the appeal preferred under Section 19(3) of the RTI Act. The CIC is constituted in terms of Section 12 of the RTI Act and its powers and functions are confined to those as provided under the Act. The CIC would have no jurisdiction to direct any public authority to institute any proceedings against any party. In ***Shobha Vijender v Chief Information Commissioner & Ors: W.P.(C) 8289/2016, decided on 29.11.2017***, this Court had held as under:

“10. It is at once clear from the aforesaid directions that the same are wholly without jurisdiction and plainly outside the scope of the CIC’s powers under the Act. The CIC is a statutory body constituted under Section 12 of the Act and has to perform its function and exercise its powers strictly in accordance with the Act. Its functions and powers are circumscribed by the provisions of the Act. Section 19 (8) - which is referred to by the CIC is limited to issuing directions for (a) requiring the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act; (b) requiring the public authority to compensate the complainant for any loss or other detriment suffered; (c) to impose any of the penalties provided under this Act; and (d) to reject the application made before it. Section 19(8) of the Act does not empower the CIC to issue any other directions except as specified therein. Clearly, the directions given by the CIC - to the Lieutenant Governor to take remedial measures to ensure strict compliance of eligibility norms in pension schemes and to obtain a comprehensive note on payment of pensions by three MCDs, and the order holding Area Municipal Counselors, their political parties and the Honorable Mayors to be accountable and responsible for following the norms prescribed for pensions - are outside the ambit of Section 19(8) of the Act.”

12. In view of the above, the impugned order to the extent it directs the petitioner to pursue action against the persons responsible for threatening the appellant, is set aside.

13. Having stated above, it is clarified that respondent no.1 is at liberty to take appropriate steps with regard to any grievance of intimidation or threats, in accordance with law. The petitioner is also not precluded to initiate disciplinary proceedings against any employee, if it is of the view

that the said employee has misconducted himself.

14. The petition is disposed of.

VIBHU BAKHRU, J

OCTOBER 09, 2018

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