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

+ **W.P.(C) 6738/2015**

RAJNI SINGH

..... Petitioner

Through: Petitioner in person.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mrs Suparna Srivastava and Mr
Tushar Mathur, Advocates for R-1.
Mr Siddharth Aggarwal and Ms
Rupali Samuel, Advocates for R-3
and R-4.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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11.10.2018

1. The petitioner has filed the present petition impugning an order dated 06.06.2014 passed by the Central Information Commission (hereafter 'CIC'), whereby the CIC had rejected the petitioner's second appeal preferred under Section 19(3) of the Right to Information Act, 2005 (hereafter 'the Act') by holding that the public authority is not required to furnish information, which require drawing of inferences or making assumptions.
2. The controversy in the present petition arises in the context of an application filed by the petitioner under the Act seeking certain information relating to the designation of Senior Advocates. The concerned CPIO responded to the said application by a letter dated 21.03.2013. A tabular statement indicating the queries raised and the response provided are as

under:-

Q. No.	Information Sought	Reply
1.	Kindly provide me the reason and points considered in reaching the decision for designating the above 19 advocates as designated Senior advocates during 2009-2010.	Senior Advocates are designated under the “Rules framed by the High Court of Delhi under Section 16(2) of the Advocates Act, 1961.
2.	Kindly furnish me at least fifteen judgments in the preceding three years, of the above mentioned 19 advocates, where they have contributed to the growth of law. 15 judgments in the preceding three years means before the selection of the above 19 advocates as designated Senior. In a lay man, language kindly furnish me 15 Judgments of the above 19 advocates between 2006 to 2009, where they have contributed to the growth of law.	Information sought for is not available with this Court.
3.	What is the practical procedure followed with regard to SUO-MOTO designation of an advocate as Senior Advocate. Provide me the criteria and grounds along with the reasons which forms the basis of SUOMOTO designation of an advocate as Senior Advocate? (it is in reference/regard to point no. 4 of notification dated 14.12.2012 No. 529/Rules/DHC).	The procedure to be followed with regard to SUO-MOTO designation of an Advocate as Senior Advocate is prescribed in Rule 4 of “Rules framed by the High Court of Delhi under Section 16 (2) of the Advocates Act, 1951 for designating an Advocate as Senior Advocate.
4.	It is mentioned in Delhi High Court notification vide no. 529/Rules/DHC dated 14.12.2012 at serial no. 9 that “The full court shall not be required to record reasons for its decisions”. The undersigned question is what are the grounds and reasons that compels the Court/Judges not to record the reasons for its decision of making an Advocate as designated Senior? Is the national security will be on Stake	Information sought for is not available with this Court.

	if reasons are recorded or in other words it is the misuse of power of the Court.	
5.	Point 4 of the notification No. 529/Rules/DHC vide dated 14.12.2012 which speaks of "Procedure to be followed with regard to SUO-MOTO designation of an advocate as Senior Advocates" this point No. 4 reflects the use of discretionary power of the court or in other words discretionary power of the judges.	No.
6.	Kindly provide what are the discretionary powers of the Court/Judges and when and where these discretionary powers are used. Secondly the undersigned want to know under what article of the constitution of India to discretionary power of the judge is mentioned in individual capacity.	Mr. S.B. Jainsinghani and Mr. S.N. Bhandari were designated SUO-MOTO as Senior Advocate on 08.10.1999 & 23.09.2000 respectively.

3. Aggrieved by the aforesaid response, the petitioner preferred an appeal before the First Appellate Authority (FAA), which was also rejected by an order dated 18.05.2013. Aggrieved by the aforesaid, the petitioner preferred a second appeal before the CIC, which was also rejected by the impugned order.

4. The petitioner, who appears in person, submits that the reasons for designation of certain advocates as Senior Advocates as sought by her, have not been provided.

5. She further contends that the decision to designate certain Advocates as 'Senior Advocates' is not in accordance with Rules and is arbitrary and unreasonable. She submits that it is a fundamental principle of law that any administrative order must record reasons to reflect application of mind. She

submits that since, reasons have not been reflected, there is no application of mind. She has also referred to her rejoinder and submits that the contentions advanced therein should be taken note of.

6. At the outset, it is relevant to observe that the controversy involved in the present petition is not with respect to correctness of any administrative decision but relates to the petitioner's right as a citizen, to receive information under the Act. It is seen that the petition filed as well as the rejoinder are largely dealing with the petitioner's grievance with regard to the process of designation of Senior Advocates. This is wholly irrelevant in the context of the challenge to CPIO's response to the petitioner's application under the Act and the impugned order passed by the CIC.

7. The only question that is required to be considered is whether the CPIO has provided the information as sought by the petitioner. It is, at once, clear that the information as available with the CPIO has been provided to the petitioner. The CIC had also observed that the Act only provides access to information that is available and existing. Plainly, a public Authority cannot be called upon to provide information that is not available with it or to furnish any opinion or advice.

8. In this regard, the CIC has observed as under:-

“At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of information and right to information under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analyzed data or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public

authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority to collect or collate such non-available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide advice or opinion to an applicant nor required to obtain and furnish any opinion or advice to an applicant.....”

9. This Court finds no infirmity with the impugned order. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

OCTOBER 11, 2018
MK/RK