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

+ LPA 716/2017 & CM No.40667/2017

KRIPA SHANKER

..... Appellant

Through: Mr. Aditya Kumar & Mr. Rupesh
Kumar, Advs.

versus

LD CENTRE INFORMATION COMMISSION (CIC) & ORS

..... Respondent

Through: Mr. Roshan Lal Goel & Ms. Anju
Gupta, Advs. for UOI.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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09.01.2018

1. The appellant is aggrieved by the imposition of maximum penalty under the Right to Information Act (hereafter referred as "RTI Act") for ₹25,000/-. It is contended that the Central Information Commission (CIC) has nowhere recorded that the information withheld was mala fide or for extraneous purposes and in the circumstances the penalty imposed was unjustified.

2. Applicant had sought information on 01.06.2013. Since the concerned designated CPIO was not possessed of the information, the application was forwarded to the present appellant under provisions of the RTI Act on 04.06.2013. The

appellant, however, did not follow-up and instead appears to have marked the application to the concerned Head Clerk. On 19.09.2013, the first Appellate Authority directed that the information be provided to the applicant with the particulars sought by him. However, nothing further happened. It triggered a complaint to the CIC – which was treated as a second appeal. By its order, the CIC directed imposition of penalty, after issuing show cause notice to the appellant and concluding that no justifiable reason had been made out for withholding the information for four years.

3. It is contended that the procedure adopted by the CIC is not supported by law and, furthermore, in the absence of a finding with respect to mala fides, the penalty could not have been imposed.

4. The Court is of the opinion that the impugned judgment of the learned Single Judge, to the extent it holds that the penalty can be imposed without a finding of mala fides, does not call for interference. We notice that the Single Judge had relied upon the judgment in *Chief Information Commissioner & Ors. v. State of Manipur* 2012 (286) ELT 485 (SC) in this regard. An information applicant is entitled to the information – unless what is sought falls within the exceptions under Section 8, or, otherwise, the organization is not covered. In this case, the appellant was officially possessed of the information. He did not act upon the application but for merely marking it to someone else. Considering the in-ordinate delay of over 4 years in regard to the

furnishing of information, the Court is of the opinion that the impugned judgment is not unreasonable nor the penalty imposed disproportionate in the circumstances of the case.

The appeal is therefore dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JANUARY 09, 2018
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