

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2316 OF 2018

Shri Krishna Chandra Singh. ... Petitioner.
V/s.
The Union of India and others. ... Respondents.

L.S.Shetty with M.M.Nair, Arnav Misra, Sanika Lalit i/b. L.S.Shetty
and Associates for the petitioner.
Mrs.Neeta V. Masurkar with Mr.Y.S.Bhate and Ms.Nieyati V.
Masurkar for respondent No.1.

CORAM : A.S.OKA AND M.S.SANKLECHA, JJ.

DATE : 13th March 2019

P.C.:

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent. Rule. Advocate on record for the first respondent waives service. Considering the controversy involved, it is not necessary to issue notice of rule to the second to fourth respondents.

2. The second appeal preferred by the petitioner under subsection (3) of section 19 of the Right to Information Act, 2005 (for short "RTI Act") has been dismissed by the Information Commissioner on merits. The impugned order notes that the petitioner was absent at the time of hearing and he had made a request in writing for grant of adjournment as he was unable to attend due to personal pre-occupation.

From the impugned order, we find that no reasons have been recorded by the Information Commissioner for rejecting the prayer for adjournment. The petitioner is a resident of Navi Mumbai in Maharashtra and hearing was conducted by the Information Commissioner in Delhi.

3. The application made by the petitioner for adjournment was not rejected, but the Information Commissioner decided the appeal on merits against the petitioner though he was not heard. Hence, the impugned order dated 1st February 2017 is vitiated by the breach of principles of natural justice. Accordingly, we pass the following order:

O R D E R

- (i) The impugned order dated 1st February 2017 passed by the fourth respondent is hereby quashed and set aside and Appeal No.CIC/SB/A/2016/000266-BJ is restored to file of the Central Information Commission;
- (ii) The Central Information Commission will decide the appeal afresh in accordance with law after giving an opportunity of being heard to the petitioner;
- (iii) We direct the petitioner to co-operate with the Central Information Commission for early disposal of appeal by remaining present on the dates fixed for hearing;
- (iv) We make it clear that we have made no adjudication on the merits of the appeal.
- (v) Rule is made absolute on the above terms.

(M.S.SANKLECHA, J.)

(A.S.OKA, J.)