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

Date of Decision: 06.09.2019

+ LPA 577/2019

SANJIV CHATURVEDI

..... Appellant

Through: Mr. Sudershan Goel, Mr. Govind Jee
& Ms. Seema Chettri, Advs.

versus

CENTRAL PUBLIC INFORMATION OFFICER Respondent

Through: Ms. Maninder Acharya, ASG with
Mr. Amit Mahajan, CGSC; Mr. Dhruv Pande &
Ms. Ikshita Singh, Advs.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

1. This Letters Patent Appeal has been preferred by the original petitioner in W.P.(C) 8275/2019, which was dismissed by the learned Single Judge *vide* judgment and order dated 31st July, 2019 (Annexure P-1 to the memo of this LPA).

2. **Factual Matrix**

- This appellant (original petitioner) preferred an application on 7th August, 2017 and sought some information, via an RTI application.
- The Central Public Information Officer rejected his application *vide* order dated 9th October, 2017.

- Being aggrieved and feeling dissatisfied by the Central Public Information Officer, the first appeal was preferred under the Right to Information Act, 2005 (hereinafter referred to as ‘the Act, 2005’) which was also rejected partially *vide* order dated 6th November, 2017.
- Being aggrieved and feeling dissatisfied, yet again, by the order dated 6th November, 2017 passed in the first appeal, the second appeal was preferred under the Act, 2005 before the Central Information Commission. The said second appeal was disposed of *vide* order dated 16th October, 2018 (Annexure P-6), wherein, in para 12, it has been observed as under:

“12. The respondent is directed to give specific reply/information on point nos.1(b), 4, 5, 12 &13 of the RTI application dated 07.08.2017 to the appellant within 15 days from the date of receipt of this order and transfer point no. 10 to Ministry of Information & Broadcasting within 5 days from the date of receipt of this order.”

- Looking into para 12 of the said order, it appears that there was a direction given by the Chief Information Commissioner to respondent No.1 to take a decision for the information to be supplied, which is sought by this appellant at Sl. No.1(b), 4, 5, 12 and 13. Thus, it appears that out of a total of 15 information requested for, 10 were supplied and for 5 pieces of information, so far as query No.1(b), 4, 5, 12 and 13 are concerned, it was observed originally by the Central Public Information Officer that they are vague, or are not ‘information’, as per Section 2 (f) of the Act. Thus, it appears that as

per the order passed in the second appeal, respondent No.1 was directed to take a decision for left out information which are 1(b), 4, 5, 12 and 13 of the application, dated 7th August, 2017, of this appellant.

- Respondent No.1 then responded to this appellant for the remaining information to be supplied, in compliance with the order passed in the second appeal, via communication dated 1st November, 2018 (Annexure P-7).
- Being aggrieved and feeling dissatisfied by the information (Annexure P-7), a complaint was preferred by this appellant under Section 18 of the Act, 2005 before the second appellate authority.
- Under Section 18 of the Act, 2005, upon complaint preferred by this appellant, second appellate authority passed an order dated 18th June, 2019 (Annexure P-11) and it has been pointed out in the said order that the information has been provided by respondent No.1 and hence, nothing is required to be done.
- Being aggrieved and feeling dissatisfied by the order of the second appellate authority under the Act, 2005 by Chief Information Commissioner, a writ petition, being W.P.(C) 8275/2019 was preferred by this appellant, which was dismissed by the learned Single Judge *vide* judgment and order dated 31st July, 2019.
- Being aggrieved and feeling dissatisfied by the judgment and order in the writ petition, the original petitioner has preferred the present LPA.

3. Arguments canvassed by the appellant

- It is submitted by the counsel for the appellant (original petitioner)

that despite the order passed by the second appellate authority under the Act, 2005, where the Chief Information Commissioner passed an order dated 16th October, 2018 (Annexure P-6), respondent No.1 has not supplied with the said pieces of information, which are at Sl. No.1(b), 4, 5, 12 and 13 of the application of this appellant dated 07.08.2017 (Annexure P-1).

- It is further submitted by the counsel for the appellant (original petitioner) that the left out information, out of total 15 pieces of information ought to have been supplied by respondent No.1 immediately after the order was passed by the Chief Information Commissioner, dated 16th October, 2018, in the second appeal preferred by this appellant under the Act, 2005. As the said information was not supplied by respondent No.1, a complaint was preferred under Section 18 of the Act, 2005, which ought to have been allowed by the Chief Information Commissioner because the reply which is given by respondent No.1, dated 01.11.2018 (Annexure P-7), was not the information sought for. This aspect of the matter has not been properly appreciated by the Chief Information Commissioner and hence, the judgment and order passed by the Chief Information Commissioner under Section 18 of the Act, 2005, dated 18th June, 2019 (Annexure P-11), as well as the judgment and order delivered by the learned Single Judge in W.P.(C) 8275/2019 dated 31st July, 2019 (Annexure P-1) deserves to be quashed and set aside.
- It is further submitted by the counsel for the appellant (original petitioner) that the Chief Information Commissioner cannot dilute an order passed in the second appeal which is dated 16th October, 2018

(Annexure P-6), *vide* another order dated 18th June, 2019 (Annexure P-11), nor can the Chief Information Commissioner dilute or review his own order dated 16th October, 2018.

4. Arguments canvassed by the counsel for Union of India

- Counsel appearing for the Union of India submitted that no error has been committed by the Chief Information Commissioner while passing the order dated 18th June, 2019 in a complaint preferred by this appellant dated 14th November, 2018, nor has any error been committed by the learned Single Judge in deciding the appeal preferred in W.P.(C) 8275/2019 *vide* judgment and order dated 31st July, 2019. It is further submitted by the counsel for Union of India that looking into the order passed by the Chief Information Commissioner in the second appeal preferred by this appellant dated 16th October, 2018(Annexure P-6), as observed in para 12, respondent No.1 was directed to take a decision for the information sought, at serial Nos. 1(b), 4, 5, 12 and 13 under the application preferred by this appellant dated 7th August, 2017 (Annexure P-1). In compliance of this direction of the Chief Information Commissioner, a decision has already been taken by respondent No.1 dated 1st November, 2018 (Annexure P-7).
- It is further submitted by the counsel for Union of India that the order passed by respondent No.1 was never challenged by this appellant and hence, it has attained its finality. It is further submitted by the counsel for Union of India that as the decision is already taken by respondent No.1 on 1st November, 2018, there is no question whatsoever arises of any order to be passed under Section 18 of the Act, 2005 in a

complaint preferred by this appellant before Chief Information Commissioner. This aspect of the matter has been properly appreciated by the Chief Information Commissioner while passing the order dated 18th June, 2019 (Annexure P-11), as well as by the learned Single Judge while deciding the writ petition preferred by this appellant.

5. Reasons

- Having heard the counsel for both sides and looking into the facts and circumstances of the case, it appears that an application was preferred by this appellant on 15 points, which is dated 07.08.2017 (Annexure P-1). This application was rejected by the Central Public Information Officer *vide* order dated 9th October, 2017.
- First appeal was preferred by this appellant under the Act, 2005 which was partially allowed *vide* order dated 6th November, 2017.
- Second appeal was preferred by this appellant before the Chief Information Commissioner. The Chief Information Commissioner passed the order on 16th October, 2018 (Annexure P-6). In pursuance of this order dated 16th October, 2018 passed by Chief Information Commissioner, a communication was made by respondent No.1 in compliance of order of the Chief Information Commissioner. The said communication is dated 1st November, 2018 (Annexure P-7). This communication is in due compliance of the order passed by the Chief Information Commissioner in the second appeal preferred by this appellant and order dated 16th October, 2018. By no stretch of imagination, it can be said that respondent No.1 has violated the order dated 16th October, 2018 passed by the Chief Information

Commissioner. If this appellant (original petitioner) is aggrieved by the communication dated 1st November, 2018 passed by respondent No.1 (Annexure P-7), the petitioner is always at liberty to approach the appropriate forum in accordance with law.

- It further appears from the facts of the case that a complaint was preferred by this appellant under Section 18 of the Act, 2005 before the Chief Information Commissioner, which was dismissed by the Chief Information Commissioner *vide* order dated 18th June, 2019 (Annexure P-11). Looking into the said order dated 18th June, 2019 to be read with the communication dated 1st November, 2018 (Annexure P-7), we find no reason to take any other view than what is taken by the Chief Information Commissioner. No error has been committed by the Chief Information Commissioner in dismissing the complaint preferred by this appellant under Section 18 of the Act, 2005, nor can it be said that the Chief Information Commissioner has diluted his own order dated 16th October, 2018, nor it can be said that the Chief Information Commissioner has reviewed his own order dated 16th October, 2018, as alleged by this appellant. Para 12 of the order dated 16th October, 2018, passed by the Chief Information Commissioner has already been quoted hereinabove. Looking into this order dated 16th October, 2018, the only direction given by the Chief Information Commissioner to respondent No.1 was to take a decision, which has already been taken by respondent No.1 on 1st November, 2018.

6. In view of these facts, neither has the Chief Information Commissioner committed any error in deciding the application preferred by this appellant under Section 18 of the Act *vide* order dated 18th June, 2019

(Annexure P-11), nor has any error been committed by the learned Single Judge while deciding W.P.(C) 8275/2019 *vide* judgment and order dated 31st July, 2019 (Annexure P-1). Hence, there is no substance in this LPA and the same is dismissed.

CHIEF JUSTICE

C.HARI SHANKAR, J

SEPTEMBER 06, 2019/ns

