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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2570/2015**
MOHAN NAINWAL

..... Petitioner

Through: Mr.Asif Ahmed, Adv.with
Mr.Kaushal Sharma, Mr.V.Oberoi,
Ms.Monika, Advs.

versus

NORTH DELHI MUNICIPAL CORPORATION & ORS

..... Respondent

Through: Ms.Puja Kalra, Adv. with
Mr.Virendra Singh,Adv.for R1-North
DMC

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **08.04.2019**

1. The present petition has been filed by the petitioner with the following prayers:

“In view of the facts and circumstances as mentioned above, it is, therefore, most respectfully prayed that this Hon’ble Court may kindly be pleased to:

- a) issue a writ, order or direction in the nature of certiorari thereby quashing / setting aside the order dated April 23, 2014 passed by the respondent No.4; and*
- b) issue a writ, order or direction in the nature of mandamus directing the respondents to comply with the*

order dated 24.07.2013 passed by the CIC; and

c) pass such other further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case."

2. In substance, the grievance of the petitioner in this case is that the CIC, which had passed initial order dated July 24, 2013, had by a subsequent order dated April 23, 2014 modified and diluted the same. In fact, according to the petitioner it has not considered the complaint in proper perspective inasmuch as there is no finding with regard to point No.1 and even on point No.2 the CIC, has not decided the complaint filed by the petitioner under Section 20 of the Right to Information Act, 2005 (at pages 80 and 81 of the paper book) in accordance with law, as it is apparent, the direction given by the CIC on July 24, 2013, has not been complied with.

3. Learned counsel for the petitioner submits that the present petition is only confined to the information sought with regard to point Nos.1 and 2 which read as under:

"1. Primary school which is running in the name of new DMC at 66, A Block, New Rohtak Road, Karol Bagh Zone, in it how may General Inspectors, Science Inspectors, Physical Inspectors and Assistant Education Officers have

inspected since year 1975 till year 2012 and in connection with the school what reports have been submitted by them and in connection with the house situated near the school, what report have been submitted by them.

2. Those officers who had demolished the house situated near New D.C.M. School situated at 66, A Block, New Rohtak Road, Karol Bagh Zone, after declaring it illegal, whether these officers had worked earlier in Education Department Karol Bagh Zone. If yes then whether these officers had conducted visit of the school at that time and how many times and what report had been submitted by them in connection with the house situated near the school.”

4. According to him, in terms of order dated July 24, 2013, the CIC has stated as under:

“Point 1: CPIO will provide attested photocopy of the report prepared after inspection conducted pursuant to the note of the AD Smt. Sangeeta Jain addressed to HOD regarding possible encroachment on the land of the school referred to in the RTI application. This will also include all the Annexures to the report.

Point 2: in his reply dated 2 November 2012 to the appellant, CPIO has stated that the demolition was carried out as per the directions of the honourable Court. CPIO is directed to provide a copy of this Court order to the appellant.”

5. According to him, pursuant thereto, the information purported to have been given by the respondents on point No.1 (at pages 58 to 65) is not the information which was required to be given to the petitioner. In other words, no information has been given at all. Even on point No.2, the CIC has directed that the CPIO shall provide a copy of the Court order because of which the demolition had taken place. Unfortunately, in this regard, it is his submission that no Court order has been supplied to the petitioner. While considering the complaint, the CIC vide the impugned order of April 23, 2014 has stated as under:

“The respondent stated that encroachment of the appellant was demolished after legal advice. Copy of the note sheet is provided to appellant in which it is clearly mentioned that the Hon’ble Court has not granted the stay on the suit property so action can be taken by the Department to vacate the premises occupied by Sh. Mohan Nainwal. The respondent submitted a written submission in this regard to the Commission and the same was provided to the appellant as information on Point 2.”

6. So, it is his submission that the order dated July 23, 2013 having not been complied with, the CIC should have taken the complaint to its logical end and passed orders under Section 20 which relates to penalties.

7. On the other hand, Ms.Puja Kalra, learned counsel appearing for the respondent No.1 has tried to justify the order dated April 23, 2014.

8. I am in agreement with the submission made by the learned counsel for the petitioner, inasmuch as the CIC has not considered the complaint made by the petitioner, and has not even dealt with the complaint made on point No.1 in its order dated April 23, 2014. That apart, on point No.2 even the information which was directed to be given vide order dated July 23, 2014 having not been given, the CIC was required to consider the issue whether the information given was the right information and if not, what are the consequences thereof. Accordingly, the order dated April 23, 2014 is set aside and the matter is remanded back to CIC to consider the complaint made by the petitioner afresh, in accordance with law and pass final order within two months of the receipt of this order.

With the aforesaid, the writ petition is disposed of.

V. KAMESWAR RAO, J

APRIL 08, 2019/aky