

\$~39

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

+ **W.P.(C) 7449/2015**

ASHUTOSH GAUTAM

..... Petitioner

Through: Mr. Mritunjay Kumar Singh, and
Ms. Ranjana Tiwary, Advs.

versus

CENTRAL INFORMATION COMMISSION AND ORS.

..... Respondent

Through: Mr. Satish Aggarwal, Sr. St. Counsel
with Mr. Vineet Sharma, Adv. for R2
to R5

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

%

22.04.2019

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

“It is, therefore, most respectfully prayed that this Hon’ble Court may be pleased to:

(a) Issue an appropriate writ, order or direction in the nature of Certiorari thereby quashing the Order dated 06.01.2015 issued by respondent No.1 under the Act;

(b) Issue an appropriate writ, Order or direction in the nature of mandamus directing respondent No.1 to decide

the Complaint of Petitioner as on its merits as per provisions of RTI Act;

(c) Issue an appropriate writ, Order or direction to the Govt. of India through Revenue Secretary to initiate Departmental Inquiry against all the errant officers responsible for deliberate delay in providing the desired pieces of information within the time limit and / or for denying the same.

(d) Pass any other or further order which this Hon'ble Court may deem fit and proper in the interest of justice."

The challenge in the writ petition is to the order dated January 06, 2015 whereby the Commission has dismissed the petition filed by the petitioner herein under Section 18(1) of the Right to Information Act, 2005 in his absence. I note that despite notice, the petitioner was neither present nor represented and thus the Commission has dismissed the complaint without any adjudication on merits.

Learned counsel for the petitioner justifies his absence by stating that the notice of hearing for January 06, 2015 was issued by the CIC; and in terms thereof even in the absence of the petitioner, the CIC was required to hear and decide the petition on the basis of the available record. In other words, it is his submission that even in his absence, the Commission was

required to decide the complaint on merits.

On the other hand, learned counsel appearing for the respondent Nos.2 to 5 justifies the order passed by the CIC. Having seen the impugned order and also notice of hearing, it is clear that the CIC has not gone into the merits of the complaint filed by the petitioner under Section 18(1) of the Right to Information Act, 2005.

If that be so, appropriate for the Commission is to decide the complaint filed by the petitioner under Section 18(1) of the Right to Information Act, 2005 in accordance with law within a period of three months from today. The Commission shall inform the petitioner and the respondents the date and time when the petitioner / respondents as well as their representative may appear before it for hearing, at least 15 days in advance.

With the aforesaid, the writ petition is disposed of.

V. KAMESWAR RAO, J

APRIL 22, 2019/aky