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

+ W.P.(C) 8321/2017

KRIPA SHANKAR

..... Petitioner

Through Mr.Abhas Mishra and Mr.Tarun
Khanna, Advs.

versus

LD CENTRAL INFORMATION
COMMISSION AND ORS

..... Respondents

Through Mr.Dinesh C.Pandey and Mr.Alok
Upadhyay, Advs. for R-4

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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28.01.2020

1. This writ petition is filed by the petitioner to quash the order dated 19.7.2017 passed by respondent No.1/CIC imposing on the petitioner a penalty of Rs.25,000/- under section 20 of the RTI Act. Other connected reliefs are also sought.
2. The case of the petitioner is that respondent No.4 filed an application under the RTI Act, 2005 (hereinafter referred to as RTI Act) seeking certain information from CESTAT, New Delhi with reference to certain appeals filed by M/s. ACL Mobiles Ltd.; M/s. Nortel Network India Pvt. Ltd. and M/s. SBI Cards and Payment Services Pvt.Ltd. The respondent No.3/ The CPIO CESTAT, New Delhi sought assistance from the petitioner vide letter dated 20.5.2014 under Sections 6(3), 5(4) and 5(5) of the RTI Act, 2005. Subsequently on 28.6.2014 respondent No.4 filed an appeal before the First Appellate Authority as information had not yet been provided.

3. The case of the petitioner is that he issued a letter dated 27.8.2014 pointing out that incorrect appeal nos. had been mentioned by respondent No. 4 in his RTI application. The CPIO duly informed respondent No.4 about the same on 28.8.2014. It is also stated that respondent No.4 thereafter provided correct names and number of appeals vide communication dated 5.9.2014 to respondent No.3/CPIO. However, respondent No.4 still did not receive the stated information. Thereafter it is stated that the petitioner was transferred to CESTAT, Hyderabad w.e.f. 14.12.2015. In the meantime respondent No.4 on 11.4.2016 filed a complaint under section 18 of the RTI Act before the CIC. CIC has now by the impugned order dated 19.7.2017 concluded that it is a fit case under section 20 of the RTI Act for levying maximum penalty of Rs.25,000/- on the petitioner for not providing information to respondent No.4 within the stipulated time frame. The order further notes that by apportioning the blame on the Head Clerk, the petitioner exposed the conduct and discipline exercised by the petitioner in the functioning of the public authority which is inappropriate and unpardonable.

4. I have heard learned counsel for the parties. Learned counsel for the petitioner has vehemently urged that the information could not be provided as the Appeal Nos. mentioned by respondent No.4 in the RTI application were incorrect. This was duly communicated to respondent No.4 at the instance of the petitioner by CPIO on 28.8.2014. It is subsequently on 5.9.2014 that respondent No.4 has written to CPIO giving the correct appeal nos. and titles of the replies. It is pleaded by learned counsel for the petitioner that this communication which was sent by respondent No.4 to CPIO dated 5.9.2014 was never received by the petitioner. Hence, petitioner

was unable to take further steps in providing necessary information. Learned counsel for the petitioner has further pointed out that more than 99 applications under the RTI Act were filed by respondent No.4 and information was provided in 97 of these applications promptly. There is only some omission in this case.

5. Learned counsel for the respondent has denied the above contentions. He firstly states that the petitioner had tried to blame the Head Clerk of the department before the CIC and a completely new plea is now sought to be raised, i.e. that the communication dated 5.9.2014 was not forwarded to the petitioner. He further points out that under similar facts and circumstances, for another RTI application a penalty was also imposed on the petitioner by the CIC on 19.7.2017 of Rs.25,000/-. Against the said order, the petitioner filed a writ petition being W.P. (C) No. 8315/2017 which was dismissed by this court on 18.9.2017.

6. I may only note that in response to the show cause notice the petitioner had filed his response dated 22.3.2017. In the said response the plea taken was that the delay took place on account of not attending to important work by the dealing Head Clerk who had neither prepared reply nor informed the petitioner about the pendency of this application. It is pleaded that had the Head Clerk put up the application in time, appropriate steps could have been taken. No plea whatsoever was raised before the CIC that the petitioner was unable to provide necessary information on account of non-receipt of the letter dated 5.9.2014 from respondent No.4, where the correct Appeal Nos. were stated. Clearly this contention of the petitioner about non-receipt of communication dated 5.9.2014 sent by respondent No.4 giving the correct Appeal Nos. has been raised for the first time before this

court. In my opinion, the same is clearly an afterthought and is without merits. Further other than a bald averment that the petitioner did not receive this communication, there is nothing on record to support the contention of the petitioner.

7. It is a matter of fact that RTI application was filed by the petitioner on 15.5.2014. It was transferred to the petitioner on 20.5.2014. Respondent No.4 has provided the correct Appeal Nos. on 5.9.2014. Respondent No.4 received the information only on 19.6.2017. In my opinion, there are no reasons to modify the impugned order passed by CIC.

8. At this stage, learned counsel for the petitioner states that the petitioner is being put to a lot of financial hardship because of impugned order of the court. Learned counsel appearing for respondent No.4 states that he has no objection in case this court were to reduce the penalty by a sum of Rs.10,000/-.

9. In these peculiar facts and circumstances, the penalty imposed by CIC is reduced to Rs.18,000/-. The petitioner would make the necessary payments in six equal monthly instalments starting from March 2020.

10. Petition stands dismissed, as above.

JAYANT NATH, J

JANUARY 28, 2020

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