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

Date of decision: 01st December, 2023

IN THE MATTER OF:

+ **W.P.(C) 10720/2021 & CM APPL. 33088/2021**

VINOD KUMAR GARG

..... Petitioner

Through: Ms. Akanksha Choudhary, Advocate

versus

CENTRAL PUBLIC INFORMATION OFFICER & ANR.

..... Respondents

Through: Ms. Sakshi Popli, Standing Counsel
for NDMC

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

1. Vide the present Writ Petition the Petitioner seeks to challenge the Order dated 28.05.2021, passed by the Central Information Commission (hereinafter referred to as 'the CIC') in Second Appeal No. CIC/NDMCN/A/2020/693402 and Complaint No. CIC/NDMCN/C/2019/659375, by which the CIC, after expressing its displeasure that the authorities under the CIC Act have not acted with promptitude in passing any directions to give information sought for by the Petitioner herein.

2. The facts of the case reveals that the Petitioner approached the Central Public Information Officer (CPIO) by filing an application, bearing reference No. CIC/NDMCN/C/2019/659375, under the Right to Information



Act, 2005 seeking the following information:

“• Certified copies of note sheets/correspondences under Section 2 (j)(ii) of RTI Act, 2005 for the approval sought from the Public authority for filing WP (C) No. 5139/2019 on 30.05.2017 by Jt. Director (Civil) through Vaibhav Agnihotri, Advocate in Delhi High Court.

• Certified copies under Section 2 (j)(ii) of RTI Act, 2005 of the note sheets/correspondences seeking approval from the public authority for filing special leave petition no. 5463/2018 in Supreme Court to Appeal against order passed by the High Court on 27.07.2017 in WP (C) No. 5139/2017.

• Certified copies under Section 2 (j)(ii) of RTI Act, 2005 of approval sought from the competent authority for the appointment of the services of Sh. Vaibhav Agnihotri in High Court and services of Learned ASG Mr P.S Narasimha in Supreme Court and the amount paid to them from public exchequer.”

3. It is stated that the CPIO failed to respond to the said query raised by the Petitioner within the stipulated time frame under the RTI Act. Thereafter, the Petitioner filed an appeal under Section 19(i) of the RTI Act with the First Appellate Authority. A complaint under Section 8 of the RTI Act was also filed before the CIC. It is stated that during the pendency of the appeal and the complaint, the Petitioner filed another RTI application seeking the following information:

“• Certified copy of note sheet indicating noting by various officials and decision of competent authority on Petitioner's complaint dated 05.03.2018 forwarded to Designated Authority/ CVO, NDMC, by CVC under letter No. CONF/8253/18/392253 dated 23.08.2018, as



per PIDPI resolution.

- Certified copy of investigation report or feedback obtained with respect to concerned authority / subordinate office i. e. officials of Finance and personnel department, as a follow up action based on Petitioner's complaint dated 05.03.2018 forwarded to Designated Authority/ CVO, NDMC, by CVC under letter No. CONF/8253/18/392253 dated 23.08.2018, as per PIDPI resolution.*
- Certified copy of letter, directions and/or instructions issued to concerned authorities/ subordinate office as a follow up action based on Petitioner's complaint dated 05.03.2018, as stipulated in PIDPI under para 8, 9 and 10.*
- In case no action is taken on the Petitioner's complaint dated 05.03.2018 forwarded to Designated Authority/ CVO, NDMC by CVC under letter No. CONF/8253/18/392253 dated 23.08.2018, as per PIDPI resolution, the Petitioner sought the name of officer(s) and staff responsible who failed to take action on complaint dated 05.03.2018."*

4. It is stated that the information sought for by the Petitioner was not given to the Petitioner on the ground that the information sought for is exempted under Section 8(1)(h) of the RTI Act. It is stated that the Petitioner herein filed an appeal before the First Appellate Authority. It is stated that the First Appellate Authority confirmed the Order passed by the CPIO. Thereafter, a Second Appeal was filed by the Petitioner before the CIC. It is stated that the CIC clubbed the Second Appeal of the Petitioner with the complaint filed by the Petitioner before the CIC. The CIC vide Order dated 28.05.2021 passed the following order:



“• *Second Appeal No. CIC/NDMCN/A/2020/693402-*

"..the concerned Respondent authority has already furnished an appropriate reply to the Appellant. Therefore, the Commissions directs the PIO, O/o Vigilance Department, NDMC, to furnish a copy of their reply, vide letter dated 05.11.2020 & 25.05.2021, to the Appellant free of cost via speed post, within 30 days after the current situation normalization and PIO rejoins the office and accordingly compliance report lo this effect be duly sent to the Commission by the PIO. No further action lies in the instant appeal."

• *Complaint No. CIC/NDMCN/C/2019/659375-*

"... the Commission expresses severe displeasure over the conduct of the then PIO in not having provided any proper reply on the RTI Application within the stipulated time frame of RTI Act. Commission was unable to procure the name of the then PIO, O/o Jt Director (Civil). Civil Estt. NDMC. Therefore, Commission directs then PIO through the present PIO to send his written submissions to justify as to why action should not be initiated against him/her under Section 20 of the RTI Act for gross violation of its provisions. In doing so, if any other persons are also responsible for the omission, the then PIO shall serve a copy of this order on such other persons under intimation to the Commission and ensure that written submissions of all such concerned persons are sent to the Commission. The said written submission of then PIO along with submissions of other concerned persons, if any, should reach the Commission within 30 days after when current situation normalizes and PIO rejoins the office.""



5. It is this Order which is under challenge in the present Writ Petition.
6. It is the contention of the Petitioner that the CIC has not adjudicated the appeal of the Petitioner.
7. The contentions raised by the Petitioner has to be accepted as the CIC has not adjudicated the second appeal bearing No. CIC/NDMCN/A/2020/693402. The CIC has proceeded as if the issue in the second appeal was only regarding delay in providing the information. Resultantly, the Order dated 28.05.2021, passed by the CIC in Second Appeal No. CIC/NDMCN/A/2020/693402 is set aside and the matter is remanded back to the CIC for adjudication on merits. As far as Complaint No. CIC/NDMCN/C/2019/659375 is concerned, the Order of the CIC reveals that the complaint has been considered by the CIC and the proceedings are going on regarding the penalty to be imposed. Accordingly, the CIC is requested to pass directions as to whether the information sought for by the Petitioner can be given to the Petitioner either by itself or by passing directions to the authorities to decide the issue and dispose of the application filed by the Petitioner under the RTI Act.
8. With these directions, the Writ Petition is disposed of. Pending applications, if any, also stand disposed of.

SUBRAMONIUM PRASAD, J

DECEMBER 01, 2023

Rahul