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

Date of decision: 12th MARCH, 2024

IN THE MATTER OF:

+ **W.P.(C) 10436/2022**

SUNNY SACHDEVA

..... Petitioner

Through: Petitioner in person

versus

ACP (NORTH), RTI CELL AND ANR.

..... Respondents

Through: Ms. Hetu Arora Sethi, ASC for
GNCTD with Ms. Ravneet Kaur,
ACP/PG and SI Ravi.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The present writ petition has been filed under Article 226 of the Constitution of India challenging the order dated 24.02.2022 passed by the Central Information Commission and to provide true, correct and proper information to the petitioner to his RTI Applications No. 1447/2020 and No. 1453/2020 dated 19.05.2020 and 21.05.2020. The petitioner has also sought punishment against the respondents for failure in providing true and correct information in response to the abovementioned RTI Applications.

2. The facts, in brief, leading to the filing of the instant writ petition are as follows:

- i. A quarrel broke-out between the Petitioner, his wife and one Vikas Tiwari on 27.02.2020 in-front of Hanuman Mandir near Police



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Booth Hardev Nagar, Burari owing to which he made a call on the police helpline 112 to seek assistance.

- ii. The petitioner thereafter filed 4 RTI Applications under Section 6 of the RTI Act with the Public Information Officer, Police Control Room dated 19.05.2020 and 21.05.2020. seeking the following information: -

i. RTI Application No. 1447/2020 dated 19.05.2020.

The following information was sought regarding calls made on Police Helpline 112 from the mobile numbers 9990090890 and 7503323332 between 9:15 and 9:30 PM on 27.02.2020

- a. Forms filled in the CPCR regarding the above said call
- b. Action Taken Against the accused person
- c. All information received or taken from the victim
- d. Whether any information has been received by the IO from other departments regarding the treatment of the victims

ii. RTI Application No. 1453/2020 dated 21.05.2020

The following information was sought regarding calls made on Police Helpline Number 112 from the mobile numbers 9990090890 and 7503323332 between 9 PM and 10 PM in 27.02.2020

- a. Forms filled in the CPCR regarding the call



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- b. Whether proper treatment was given to the victim
- c. If any CCTV footage was collected as Evidence
- d. Amount of Police officials present in Hardev Nagar Police Booth Between 9-10PM

iii. RTI Application No. 1454/2020 dated 21.05.2020.

Information was sought regarding call made on the Police Helpline Number 112 from the mobile numbers of the petitioner between 11:30 PM to 12:00 AM on the intervening night of 18.10.2019 about public nuisance at B-26, Hardev Nagar, Burari.

iv. RTI Application No. 1455/2020 dated 21.05.2020

Information was sought regarding DD No. 35B dated 24.09.2019 related to encroachment of public streets in Burari.

iii. The PIO, North District, Civil Lines replied to the RTI Applications No. 1447/2020 and No. 1453/2020 vide reply dated 19.06.2020 and 22.06.2020 respectively stating the following

- i. No PCR Call was received from the PS Wazirabad from either of the mobile numbers.
- ii. Further information was sought from ACP Timarpur which revealed that one call was received from the Mobile Number 7503323332, and a challan was traced from that number, details of which were provided to the petitioner.



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- iii. It was also stated that no call was received from the mobile Number 9990090890
- iv. Dissatisfied with the reply of the PIO, the petitioner preferred an appeal under Section 19(1) of the RTI Act to both the replies dated 19.06.2020 and 22.06.2020 in front of the Dy. Commissioner of Police, North East.
- v. The First Appellate Authority/Dy. Commissioner vide orders dated 02.11.2020 disposed of Appeal No. 221/2020/Appeal/RTI/North District w.r.t. RTI Application dated 19.05.2020 and Appeal No. 222/2020/Appeal/RTI/ North District w.r.t RTI Application dated 21.05.2020 and remanded both the RTI Applications back to the PIO to provide a fresh reply to the petitioner.
- vi. Aggrieved by the orders of the First Appellate Authority, the petitioner filed a second appeal under Section 19(3) of the RTI Act dated 10.12.2020 before the Ld. Central Information Commission.
- vii. During the pendency of the second appeal before the Ld. CIC, additional information was obtained from the SHO, Wazirabad which was duly forwarded to the petitioner by ACP, Timarpur vide letter dated 14.12.2020 and 08.01.2021. On receipt of the abovementioned information, the FAA/ Dy. Commissioner passed a revised order dated 04.01.2021.
- viii. The Ld. CIC after hearing both the parties passed the Impugned Order dated 24.02.2022 and held that appropriate information was provided to the petitioner as per the provisions of the RTI Act and no



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further intervention was required by the Ld. CIC in the instant matter. The CIC also advised the petitioner to approach the appropriate forum for redressal of his grievances.

ix. Aggrieved by the order dated 24.02.2022, the petitioner filed the present writ petition.

3. The petition came up for hearing on 12.07.2022 and 14.10.2022 and there was no appearance on behalf of the petitioner. Subsequently vide order dated 06.01.2023 the petition was dismissed for non-prosecution. The petitioner thereafter filed an application dated 11.01.2023 for restoration of the present petition and the petition was restored to its original number.

4. Notice was issued in this matter on 15.02.2023 and the respondents were directed to file a status report.

5. It was submitted by the petitioner, who appears in person, that despite specific information sought by him vide his RTI Applications No. 1447/2020 and No. 1453/2020 dated 19.05.2020 and 22.05.2020 respectively, the respondents have failed to provide the true and correct information to the petitioner regarding his PCR Call(s) dated 27.02.2020.

6. It was further argued by the petitioner that despite specific instructions of the FAA vide orders dated 02.11.2020, the PIO failed to provide true and correct information to the petitioner vide letters dated 14.12.2020 and 08.01.2021 which was sought in the RTI Applications. He also alleges that the act of not disclosing the information pertains to the complicity of the police in shielding the accused. He states that action



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should be taken against the concerned officials and penalties should be imposed under Section 20 of the RTI Act.

7. *Per Contra*, the Ld. Counsel for the respondents at the outset accepted that there has been an inadvertent error in providing true and correct information to the petitioner to his RTI Applications dated 19.05.2020 and 22.05.2020 in the replies pursuant to the order of the First Appellate Authority dated 02.11.2020. The Ld. Counsel submits that the inadvertent error in providing true and correct information happened due to the Petitioner filing multiple RTI Applications seeking similar information. The Ld. Counsel referred to the status report dated 02.08.2023 and submitted that the petitioner filed 4 RTI Applications with the PCR regarding the same incident that occurred on 27.02.2020. The relevant portion of the status report reads as under:-

“It is stated that the petitioner had filed 04 RTI applications with PCR vide Nos. (1) 1447 /2020, dated 19/05/2020 (RTI Cell North District ID No. 636/2020) (2) 1453/2020, dated 21/05/2020 (RTI Cell North District ID No. 637 /2020) (3) 1454/2020, dated 21/05/2020 (RTI Cell North District ID No. 617 /2020) and (4) 1455/2020, dated 21/05/2020 (RTI Cell North District ID No. 638/2020). The details of information asked vide these RTI applications are as under:-

I. The information sought vide RTI application 1447/2020, dated 19/05/2020 was regarding PCR call dated 27/02/2020 between 9:15 PM to 9:30 PM regarding quarrel in front of Hanuman Mandir near Police Booth Hardev Nagar, Burari



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from mobile number 9990090890 and 7503323332.

II. The information sought vide RTI application 1453/2020, dated 21/05/2020 was regarding PCR call dated 27/02/2020 between 9:00 PM to 10:00 PM regarding quarrel in front of Hanuman Mandir near Police Booth Hardev Nagar, Burari from mobile number 9990090890 and 7503323332.

III. The information sought vide RTI application 1454/2020, dated 21/05/2020 was regarding PCR call dated 18/10/2019 between 11:30 PM to 12:00 midnight regarding public nuisance at B-26, Hardev Nagar, Burari from mobile number 9990090890 and 7503323332.

IV. The information sought vide RTI application 1455/2020, dated 21/05/2020 was regarding DD No. 35B, dated 24/09/2019 related to encroachment to public street.”

8. The Ld. Counsel for the respondents while referring to the status report dated 02.08.2023 further submitted that due to the numerous RTI Applications filed by the petitioner, there was an error in providing correct information to the petitioner. The relevant portion of the status report dated 02.08.2023 reads as follows :

“The information given in reply to RTI application vide ID No. 1447/2020(RTI Cell North District ID No. 636/2020) (given after the order of the 1st appellant authority)was related to another RTI application received through same channel i.e. PCR vide ID No.



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1454, dated 21/05/2020 (North District RTI Cell ID No. 617 /2020). It was provided inadvertently to the applicant because the diary number mentioned on the reply by ACP/Timarpur was of ID No. 1447/2020.

The information given in reply to RTI application vide ID No.1453/2020(RTI Cell North District ID No. 637 /2020)(given after the order of the 1st appellant ~ authority) was related to another RTI application received through same channel i.e. PCR vide ID No. 1455, dated 21/05/2020 (North District RTI Cell ID No. 638/2020). It was provided inadvertently to the applicant because the diary number mentioned on the reply by ACP/Timarpur was of ID No. 1453/2020.

The amalgamation in providing the information to the petitioner was happened at the time of forwarding the same by ACP/Timarpur who had exchanged the ID numbers of the applications due to various RTI application filed by the same applicant/present petitioner seeking identical information in all RTI applications. Since the ID numbers were wrongly mentioned in the office of ACP Timarpur, the appropriate departmental action is being taken against the Reader to ACP, Timarpur and also the then ACP Timarpur (now retired). An action is also being taken against the then Inspector Sushma Rani (now retired) posted at RTICell (North District). There was no malafide intention on the part of PIO, North District and primary supplier in providing the above information to the petitioner.”

9. The Ld. Counsel for the respondents submitted that the reply given to the petitioner for his RTI Application 1447/2020 dated 19.05.2020 was



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related to the RTI Application 1454/2020 dated 21.05.2020 which was received through the same channel. Similarly, the Ld. Counsel also provided that the reply given to the petitioner for his RTI Application 1453/2020 dated 21.05.2020 was related to the RTI Application 1455/2020 dated 21.05.2020 received through the same channel. The Counsel submitted that the inadvertent error took place because the wrong diary number was mentioned in the information which was obtained from the ACP, Timarpur. She submits that the ACP, Timarpur inadvertently exchanged the ID numbers of the application due to various RTI Applications being filed by the petitioner seeking identical information in all of the RTI Applications. The Ld. Counsel states that departmental action has been taken against the Reader to ACP, Timarpur, the then ACP, Timarpur and Inspector Sushma Rani for their failure in providing a true and correct reply to the petitioner under the provisions of the RTI Act.

10. The Ld. Counsel for the respondents also submitted that there was no malafide on the part of the PIO or other officials in providing the incorrect response to the petitioner pursuant to the order dated 04.01.2021 passed by the First Appellate Authority. The counsel provided that a fresh and correct response dated 02.08.2023 to the RTI Applications 1447/2020 and 1453/2020 has been provided to the petitioner during the pendency of the petition, and the same has also been filed with the status report pursuant to the order dated 15.02.2023.

11. Heard the parties and perused the material on record.



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12. The main contention of the petitioner is that a true and correct reply was not provided to him against his RTI Applications No. 1447/2020 and 1453/2020 dated 19.05.2020 and 21.05.2020 despite a pendency of 3 years, for which he sought quashing of the order dated 24.02.2022 passed by the Ld. CIC. The petitioner has also sought action under Section 20 of the RTI Act against the respondents and information regarding the status of the enquiry against the officials who were responsible for providing the incorrect information to the petitioner.

13. Material on Record discloses that pursuant to filing of the writ petition, true and correct replies have been provided to the petitioner to his RTI Applications No. 1447/2020 and 1453/2020, and the same have also been accepted by the petitioner to his satisfaction. The status report filed by the respondents also discloses that departmental actions have also been initiated against three persons for the error in providing the information to the petitioner which also include two retired personnel of the Delhi Police.

14. The only surviving grievance of the petitioner therefore is that a proper penalty should be imposed on the concerned officials under Section 20 of the RTI Act. Section 20 of the RTI Act reads as follows:

“20. Penalties.—(1)Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within



the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action



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against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.”

15. Perusal of the above mentioned section shows that a penalty or a departmental action should only be imposed on concerned officers if there is a refusal to receive an application for information, if the information is not furnished within the specified time limit or the disclosure of information is denied malafidely or an incorrect, incomplete or misleading reply is furnished to the applicant.

16. Material on record discloses that due to the petitioner filing four RTI applications for the same incident, there was an inadvertent error in providing the information as sought insofar as the wrong diary numbers were mentioned against the RTI Applications No. 1447/2020 and 1453/2020 due to which information relating to RTI No. 1454/2020 and RTI No. 1455/2020 was provided to the petitioner vide letters dated 14.12.2020 and 08.01.2021. This will not amount to malafides on part of the officials. Furthermore, this court in Mujibir Rehman v CIC, 2009 SCC OnLine Del 1149 while adjudicating on the provision of penalty under Section 20 of the RTI Act held as follows:

“10. A close and textual reading of Section 20 itself reveals that there are three circumstances, whereby a penalty can be imposed i.e.

(a) Refusal to receive an application for information;



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(b) Not furnishing information within the time specified; and

(c) Denying malafidely the request for information or knowingly given incorrect, incomplete or misleading information for destroying information that was the subject matter of the request.

Each of the conditions is prefaced by the infraction "without reasonable cause".

17. It is clear from the abovementioned discussion that a penalty should only be imposed if there is a malafide in providing incorrect, incomplete or misleading information in response to an RTI Application or if the same has been done without reasonable cause. Furthermore, it is also observed that departmental action can also be recommended against the concerned officer(s) under the applicable service rules. In the present case, the respondents have contended that the error was an inadvertent one which happened due to the petitioner filing four RTI Applications seeking similar or identical information, due to which the wrong diary numbers were mentioned by officials of the department owing to which a wrong reply was sent to the petitioner in the replies dated 14.12.2020 and 08.01.2021. Material on record discloses that owing to the error committed by the concerned officials, departmental action has been initiated against 3 persons under the applicable service rules. In the opinion of this court, appropriate action has been taken against the concerned personnel and there is no need



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for imposition of a monetary penalty against the personnel under Section 20(1) of the RTI Act.

18. In view of the above, since information has been provided to the petitioner in response to his RTI Applications, this Court is inclined to dispose of the writ petition.

19. Needless to state that if the petitioner is dissatisfied with the replies dated 02.08.2023, it is open for him to avail of the remedies as provided under the RTI Act.

20. With these observations, the writ petition is disposed of, along with pending application(s), if any,

SUBRAMONIUM PRASAD, J

MARCH 12, 2024

hsk/TS