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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 158/2023, CM Nos.10670/2023 & 10672/2023

ASHUTOSH GAUTAM

.....Appellant

Through: Mr M.K. Bhardwaj, Mrs Priyanka M. Bhardwaj, Ms Akshita Nain, Mr Himanshu Bhardwaj and Mr Maria Mugesh Kannan, Advs.

versus

CENTRAL INFORMATION COMMISSION & ANR....Respondents

Through: Ms Rashmi Chopra, Mr Fiza Chopra and Mr Puneet Rathi, Advs. for R-2 & 3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

11.09.2024

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[Physical Hearing/Hybrid Hearing (as per request)]

1. This appeal is directed against the judgment and order dated 19.05.2022 passed by the learned Single Judge.
2. *Via* the impugned judgment and order, the learned Single Judge dismissed the writ petition preferred by the appellant.
3. The grievance articulated by the appellant in the writ petition was that the penalty imposed by respondent no. 1 was inadequate and not in accordance with the provisions embedded in the Right to Information Act, 2005 [in short "2005 Act"].
4. According to the learned Single Judge, the challenge laid by the appellant was unsustainable as the penalty imposed by respondent no. 1 was within the discretion of the Commission.

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5. We may note that respondent no. 1 issued the following operative directions insofar as the imposition of penalty is concerned:

“11. That it is an uncontradicted fact that the dispute of the complainant related to the seniority list has been decided by the tribunal on 31.10.2017. But such information has been provided only later after the decision of the tribunal which shows their malafide intention of obstructing the information. That the excuse of the answering respondent that the information sought is for a long period and hence required time to be searched and provided, is not justified as the file numbers are specifically mentioned while seeking information and the respondent did not even provide any interim reply to indicate their bonafide conduct. Again the allegation of malafide and bias in obstructing the information till the date of judgment of the tribunal has been observed by the Commission as there is no plausible justification for CPIOs keeping both RTI Applications pending and FAA not deciding the appeals to correct the judicial misconduct of CPIO independently. The only submission made is excessive workload and time required to collect the information.

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13. In the above circumstances, levy of penalty is warranted. Therefore, this Commission is constrained to impose a penalty of Rs. 5000/- (Rupees Five Thousand Only) u/s Section 20(1) of the RTI Act, 2005 each on Rajashree Sunil and Shri Ravi Chauhan, then CPIOs responsible for willfully obstructing the information by not responding to the RTI applicant in reasonable time. The amount of Rs. 5000/- (Rupees Five Thousand Only) shall be deducted by the Public Authority from their salary. A demand draft drawn in favour of "PAO, CAT", New Delhi be forwarded to the Deputy Registrar (CR-II), email: dyregcr2_cic@gov.in Room No. 106, First Floor, Central Information Commission, Baba Gangnath Marg, Munirka, New Delhi-110067. This demand draft of Rs. 5000/- (Rupees Five Thousand Only) each should reach the Commission by 05.11.2021. The present CPIO should ensure service of a copy of this order to the then CPIO.”

6. In our view, discretion with regard to the imposition of penalty has been employed by respondent no. 1, after appreciating the facts and circumstances of the case.

7. No doubt, there was substantial delay in providing information to the appellant, something which is apparent on a perusal of paragraph eight (8) of respondent no. 1's order. However, we would not want to disturb either the



judgment of the learned Single Judge or orders passed by respondent no.1, given the fact that the quantum of penalty under the 2005 Act fell within the realm of respondent no. 1's discretion.

8. Besides this, the other reason why we are not inclined to disturb the impugned judgment is on account of the fact that there is substantial delay in filing the appeal.

9. The appeal, even according to the appellant, is delayed by 214 days. There is also a delay of 34 days in re-filing the appeal.

10. Thus, for the reasons given above, we find no merit in the appeal.

11. The appeal is, accordingly, dismissed. Consequently, the pending applications shall stand closed.

RAJIV SHAKDHER, J

AMIT BANSAL, J

SEPTEMBER 11, 2024

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[Click here to check corrigendum, if any](#)