



2024:DHC:1777



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

Date of decision: 28th FEBRUARY, 2024

IN THE MATTER OF:

+ **W.P.(C) 930/2021**

EHTESHAM QUTUBUDDIN SIDDIQUE Petitioner

Through: Mr. Arpit Bhargava, Mr. Sarthak
Sharma & Mr. Pankaj, Advocates.

versus

CPIO, INTELLIGENCE BUREAU Respondent

Through: Mr. Rahul Sharma, Central, Senior
Panel Counsel with Mr. C. K. Bhatt,
Mr. Ayush Bhatt and Mr. Angad
Gautam, Advocates for Respondent/
CPIO, Intelligence Bureau.
Mr. Rakesh Kumar, CGSC with Mr.
Sunil, Advocate for UoI.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner has been convicted and sentenced to death in the Mumbai Twin Blast known as 7/11 bomb blast case which took place in the year 2006. The Petitioner was Accused No.4. The Petitioner was sentenced to a punishment of death for an offence under Section 302 of the IPC, under Section 3(b) of the Explosive Substances Act, 1908 and under Section 3(1)(i) of the Maharashtra Control of Organized Crime Act, 1999 and apart from this, the Petitioner had also been sentenced for various offences under the provision of IPC.



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2. The Petitioner in this Writ Petition had made an RTI application, on the 04.09.2017, to the CPIO Intelligence Bureau seeking a copy of an alleged Intelligence Bureau report, suggesting false implication and arrest of accused persons, placed before the Ministry of Home Affairs in the year 2009 for review of evidence in the bomb blast case. The information as sought for by the Petitioner was rejected by the CPIO, Ministry of Home Affairs, vide a letter dated 21.09.2017, on the ground that the agency from which the information was sought for by the Petitioner is exempted from the purview of the RTI Act under Section 24(1).

3. The Petitioner proceeded to file a first appeal under Section 19(1) of the RTI Act with the designated First Appellate Authority (FAA), on 23.10.2017. It is pertinent to mention here that the Petitioner before the authority, has pleaded that Section 24(1) of the RTI Act would not apply as his case is one of human rights violation and that is the information sought is respect of an alleged human right violation. The Petitioner further adds that the officers involved in the investigation of the Twin Blast case were awarded various medals and other monetary benefits for the arrest of innocent persons, an act of corruption that the Petitioner alleges pertains to allegations of corruption and hence cannot be excluded under Section 24(1) of the RTI Act. In its response dated 15.11.2017, the FAA, rejected the appeal of the Petitioner on the grounds that the order of the CPIO, Intelligence Bureau, was in according the provisions of the RTI Act.

4. Aggrieved, the Petitioner proceeded to file a second appeal with the Central Information Commission (CIC). In the appeal the Petitioner



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reaffirmed the grounds mentioned in his first appeal. The CIC in its order upheld the decision of the CPIO and FAA and stated that the query raised by the Petitioner fails to satisfy two preconditions carved out under Section 24(1) of the RTI Act: that are, (i) the information being sought must relate to allegations of corruption / human right violations; and (ii) the same must be expressly barred under Section 8 of the RTI Act. The CIC found that the query raised by the Petitioner fails to satisfy either of the essential preconditions and hence is liable to be dismissed.

5. The Petitioner proceeded to challenge the order passed by CIC in way of W.P. (C) 9773/2018 in front of a Coordinate Bench of this Hon'ble Court on the grounds that the information sought by the Petitioner relates to allegations of violation of human rights. The Coordinate Bench *vide* Judgment dated 16.01.2019 held that the Petitioner's application does relate to violation of human rights and the CIC's conclusion was erroneous. The Coordinate Bench further remanded the matter back to the CIC to be considered afresh.

6. Subsequently, the CIC heard the matter afresh where the CPIO, Intelligence Bureau, contended that the no such report, as claimed by the Petitioner, was submitted to the Ministry of Home Affairs, hence no information can be provided in this regard. The CIC passed an order directing the CPIO to file an affidavit deposing that no such report was submitted to the Ministry of Home Affairs in the year 2009 and hence no such information can be provided to the appellant, disposing the appeal.



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7. The aforesaid Order passed by the Ld CIC is under challenge in the instant writ petition.

8. The short question which arises for consideration before this Court is whether the Order passed by the CIC is so palpably erroneous or if the decision-making process has faltered in any way that this court should interfere under the powers vested in it under Article 226.

9. The information sought by the Petitioner is on the basis of a newspaper article, published in the year 2009, alleging the existence of an Intelligence Bureau report, suggesting false implication and arrest of accused persons, placed before the Ministry of Home Affairs for review of evidence in the bomb blast case. It has been well established, through various judgments of the apex court, that a report or an article published in a newspaper is considered only heresy evidence and such a newspaper report, or article, is not a document through which an allegation of fact can be proven.

10. In the present case it is the contention of the Respondent/CPIO, Intelligence Bureau that no such report as asked by the Petitioner, was sent to the Ministry of Home Affairs in the year 2009. To further bolster their stance the Respondents have furnished affidavits on directions of the CIC to the Petitioner as well as this Court on the 9th of July 2019. The affidavit reads as under:-

“I, Rajeev Kumar Gupta, aged about 50 years, S/o Shri Motilal Gupta, posted as Joint Deputy Director & CPIO, Intelligence Bureau, Ministry of Home Affairs (MHA), Government of India having office at 35, SP



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Marg, New Delhi-110021 do hereby solemnly affirm and state as under:

1. That I am the CPIO of the Respondent, Intelligence Bureau, Ministry of Home Affairs (MHA), Government of India, and as such I am fully competent and authorized to swear the contents of this affidavit.

2. I say that the present Affidavit has been prepared in compliance of the directions issued to the Respondent vide CIC order dated 10.06.2019 passed by this Hon'ble Commission.

3. I say that as per records, no such report of the Intelligence Bureau, as alleged/claimed by the appellant in his RTI Application dated 04.09.2017 was submitted to the Ministry of Home Affairs in the year 2009.

4. I say that the contents of the present affidavit are true and correct based on official records."

(emphasis supplied)

11. This court is of the opinion that no such gross error has occurred by the CIC in their adjudication of the order. The premise on which the Petitioner is relying, the publishing of such newspaper article, cannot be taken as gospel truth. Affidavits have been filed by responsible officers in the Court stating that no such report exists. This Court has no reason to disbelieve the affidavit of the Respondent.



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12. In view of the above, this Court is not inclined to interfere with the Impugned Order passed by the Ld. CIC. Resultantly, the writ petition is dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

FEBRUARY 28, 2024

hsk/vsk