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

+ **W.P.(C) 5263/2020 & CM APPLs. 18956/2020, 18957/2020**

UNION OF INDIA THROUGH MOSPI

..... Petitioner

Through: Mr. Rahul Sharma, SPC with Mr. C.
K. Bhatt, Mr. Ayush Bhatt and Mr.
Harsh Rao, Advocates.

versus

VISHNU DEV BHANDARI

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

15.05.2024

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1. The instant writ petition has been filed by the Petitioner Union of India through Ministry of Statistics and Programme Implementation challenging the Order dated 16.09.2018 passed by the Ld. Central Information Commission (CIC) in Appeal bearing No. CIC/ISTIN/A/2017/184311.

2. The Respondent filed an RTI application on 18.09.2017 before the CPIO, Ministry of Statistics and Programme Implementation seeking the following information:

*“To,
CPIO, Ministry of Statistics and Programme
Implementation Sansad Bhawan, New Delhi-110001.*

Reference:-

*1. Your letter bearing No. C-12/2016/MPLADS dated
28.07.2016*



2. Your letter bearing No. C-12/2016/MPLADS dated 22.03.2017

Both the abovementioned letters were sent to District Planning officer, District- Madhubani, Bihar.

Subject:- Application under RTI Act, 2005 seeking certified copy of the following information:-

i) Which report has been sent to the Ministry in response to your above noted letters? Provide certified copy of the report.

ii) Which order was passed by the Ministry on the report on the report sent by District Planning Officer, Madhubani? Provide certified copy of the order.

iii) If the report has not been received, then what action has been taken again for compliance of the above noted orders of the Ministry? Provide certified copy of the action taken.”

3. A reply was given to the Petitioner on 09.10.2017. Dissatisfied by the said reply, the Respondent filed an appeal and, thereafter, also filed the Second Appeal before the Ld. CIC.

4. It is the case of the Petitioner that Ld. CIC has exceeded its jurisdiction by commenting upon the action taken by the Members of Parliament in spending Members of Parliament Local Area Development Scheme (MPLADS) funds which was beyond the jurisdiction of the Ld. CIC. It is stated by the learned Counsel for the Petitioner that the Ld. CIC ought to have confined itself only to the question raised in the RTI application or any other aspect concerning the RTI application.

5. Section 18 of the RTI Act, 2005 gives the powers and functions of the



Information Commissions which reads as under:

“18. Powers and functions of Information Commissions.—(1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,—

(a) who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;

(b) who has been refused access to any information requested under this Act;

(c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;

(d) who has been required to pay an amount of fee which he or she considers unreasonable;

(e) who believes that he or she has been given incomplete, misleading or false information under this Act; and

(f) in respect of any other matter relating to



requesting or obtaining access to records under this Act.

(2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(3) The Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavit;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing summons for examination of witnesses or documents; and

(f) any other matter which may be prescribed.

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be,



may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.”

6. A perusal of Section 18 of the RTI Act reveals that the Ld. CIC can only deal with issues relating to the information sought for under the RTI Act or any other issue which leads to dissipation of information as sought for by the Applicant. The Ld. CIC has no jurisdiction to comment adversely upon the functioning of any public authority. A perusal of the Impugned Order dated 16.09.2018 discloses that the Ld. CIC has commented upon utilization of funds receivable under the Members of Parliament Local Area Development Scheme (MPLADS) funds by various MPs. Paragraph Nos.57 to 65 of the Impugned Order dated 16.09.2018 reads as under:

“57. The Commission directs the CPIOs of the Offices of Secretary General Lok and Rajya Sabha to place this order on MPLADS before the Honourable Speaker Lok Sabha and Honourable Chairman Rajya Sabha, to facilitate appropriate action. The Commission humbly recommends these two personalities holding high positions in the most important Constitutional Estate: The Central Legislature (Parliament) to consider:

a) To provide necessary LEGAL FRAME for the MPLADS, with specific duties and compulsory transparency obligations, definitions of breach of duties, prescribing rules and regulations, besides imposing liabilities for dereliction of those duties and breach of rules and regulations; which may include prohibition of certain acts such as:

i. assets claimed to have been created under MPLADS not traceable,



ii. spending MPLADS funds for private works of MP,

iii. recommending funds to ineligible agencies,

iv. diversion funds to private trusts,

v. works recommended under MPLADS benefits the MP or his relatives,

vi. breach of any norms laid down for recommending works.

b) this legal frame may also ideally list out the obligations of MPs such as:

i. duty to inform every year, number of applications received, works recommended, works rejected with reasons, progress of works, details of beneficiaries, and a comprehensive report on MPLADS works after completion of term by MP, to Chairman of Rajya Sabha or Speaker of Lok Sabha, respectively, to office of Parliament;

ii. duty to inform the voters seeking such details through RTI Act and generally;

iii. duty of Parliamentary Party to post the details on their pages in official websites and on webpages of MP such as <https://www.india.gov.in/my-government/indian-parliament/>;

c) To ensure compliance of transparency obligations by the Parliamentary Parties of various Original Political Parties, having presence of multiple members in Parliament, under Section 2(h) of RTI Act and direct the office machinery of Parliament to



provide necessary secretarial assistance to fulfill their obligations under RTI Act;

d) To direct the office machinery in coordination with National Informatics Center to incorporate in each page of MP on their official website (<https://www.india.gov.in/my-government/indian-parliament/>) a software provision to upload an application for recommendation of works under MPLADS; which could be either recommended; or rejected with reasons in a time bound manner, online; and on recommendation of such work, its progress from time to time shall be reported on the same page; and detailed final report with all beneficiaries and assets created be filed on completion of the work; and more importantly; such a page shall be accessible to common-man, officers concerned and the Parliament. This will enhance the dignity of already transparent institute- the Parliament, and prevent corruption In MPLADS as apprehended by various committees as mentioned above, besides saving thousands of crores of rupees of public money every year;

e) To take necessary initiative to develop code of conduct as has been rightly recommended by Honourable Chairman Rajya Sabha and Vice President of India, in his wisdom to cover ethics on MPLADS.

58. The Commission recommends the Ministry of Parliamentary Affairs to render necessary assistance to Honourble Chairman of Rajya Sabha and Honourble Speaker to develop legal frame for MPLADS as mentioned above and to make all Parliamentary Parties and MPs answerable and accountable for MPLADS funds as public authorities under RTI Act to prevent MPLADS irregularities.



59. In this case the honourable MP Shri Devender Prasad Yadav, is a member of the 14th Lok Sabha from Jhanjharpur Constituency of Bihar from Rashtriya Janata Dal. It was reported that he left RJD and formed a new party called Samajwadi Party in Bihar. The Parliamentary Party of Rashtriya Janata Dal should take responsibility of providing the information sought, on behalf of their former MP Shri Devendra Prasad Yadav, who is also individually expected to oblige to disclose the information.

60. This former MP has not hesitated to provide even his personal Information on this link : <http://164.100.47.194>

Loksabha/members/ArchiveMemberBioprofile.aspx?mpsno=525&lastls=14. The MPLADS website shows that Shri Devendra Prasad Yadav of Jhanjharpur, has recommended works for the entire quota of his MPLADS. His utilization over released amount is 101.65%. The former MP should not have any difficulty in explaining the works, their progress, results and beneficiaries he recommended.

S.No	MPs Name and Constituency	Cumulative Expenditure (Since inception in 1993 till 14 th Lok Sabha)							
		Entitlement of Constituency (Rs Crore)	Released by G.O.I (Rs Crore)	Amount available with interest (Rs Crore)	Cumulative amount recommended by Members of Parliament for various MPLADS works (Rs Crore)	Amount Sanctioned (Rs Crore)	Expenditure incurred (Rs Crore)	Percentage of utilization over released	Unspent Balance (Rs Crore)
(0)	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
19	Devendra Prasad Yadav JHANJHARPUR	26.05	26.05	26.48	28.51	25.61	26.48	101.65	0.00



61. *The Commission directs the CPIO of Ministry of Statistics and Program Implementation to collect information from concerned district authorities and furnish the information sought as far as their MP is concerned within one month, and publish it in their official website also. Considering the Parliamentary Party of RJD as the public authority under Section 2(h) of the RTI Act, 2005 the Commission require the office of Parliamentary Party of RJD, Parliament of India, to collect the information from former MP or concerned district authorities and publish it on their website.*

62. *The State Governments and their nodal district authorities are under the jurisdiction of the State Information Commissions; hence, apparently the Central Information Commission has no authority to direct them on these issues. But the information sought by the appellant is related to MPLADS work for which respondent MoSPI from centre has released funds, and such information is supposed to be disclosed by the authorities on their own as per Section 4(1)(b) of RTI Act. Non-compliance of Section 4 obligations will amount to a serious dereliction of RTI Act. Under Section 19(8) the Commission require to make certain changes in transparency disclosures and furnishing certain categories of information for RTI requests. To that extent the concerned district authorities, are accountable to the MoSPI, the funds-releasing agency on submission of utilization certificates, and thus, is under an obligation to submit details explaining how such fund was properly spent. As the appellant sought such information from public authority MoSPI under RTI, they have a duty to assist it by furnishing those details to share with appellant. According to S. 19(8)(a)(iii), the Commission requires the District Administration to furnish such information work-wise, MP-wise, year wise progress of works regularly to the MoSP, concerned MP, his Parliamentary Party, and*



also office of the Parliament.

63. As per Section 19(8)(a)(iii) the Commission require public authority to make certain changes in transparency disclosures and furnishing certain categories of information for RTI requests. Because the information under demand was concerning the progress of MPLADS, the CIC has jurisdiction to that extent to seek from the authority which is holding it. Exercising that power, the Commission requires the District Administration to furnish information about work-wise, MP-wise, year wise progress of works regularly on its website or other means convenient to the MoSP, concerned MP, concerned Parliamentary Party, and office of the Parliament .

64. The Commission noticed that MoSPI does not have any information about the actual status of this work though they release the funds. The MoSPI is receiving the utilization certificates from district authority, but they are not keeping any utilization details on the website and it is also not known whether utilization certificate contain physical details of actual works. The CPIO did not show any papers to say that Ministry probed these numbers to find what works were actually completed. Surprisingly this Ministry neither monitored the progress nor secured complete details from District authorities.

65. The Commission as per section 19(8)(a)(iii) requires the public authority (the Ministry of Statistics and Program Implementation) to make necessary changes to publish MP-wise, Constituency wise and work-wise details, with names of beneficiaries, and reasons for delay, if any, after duly procuring from the sources holding such information including the concerned district administration to ensure its voluntary disclosure under Section 4.”



7. The Ld. CIC has no jurisdiction to comment the utilization of funds by the Members of Parliament under the Members of Parliament Local Area Development Scheme (MPLADS). The scope of the RTI Act is only to ensure that information sought for under the RTI Act is dissipated in order to secure access to information under the control of public authorities. Therefore, the observations made by the Ld. CIC commenting upon as to how the Members of Parliament are utilizing the Members of Parliament Local Area Development Scheme (MPLADS) funds have to be expunged.

8. In view of the above, the portion of paragraph Nos.57 to 65 of the Impugned Order dated 16.09.2018 to the extent of observations made by the Ld. CIC regarding utilization of Members of Parliament Local Area Development Scheme (MPLADS) funds and the abuse of MPLADS funds stand eschewed. However, the portion whereby the Ld. CIC has directed the public authority under Section 19(8)(a)(iii) of RTI Act to publish MP-wise, Constituency wise and work-wise details of the funds is retained.

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

SUBRAMONIUM PRASAD, J

MAY 15, 2024

S. Zakir