



\$~65

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

Date of decision: 02nd MAY, 2024

IN THE MATTER OF:

+ **W.P.(C) 6034/2024 & CM APPL. 25029/2024**

GOVT OF NCT OF DELHI AND ANR.

..... Petitioners

Through: Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi and Mr. Hitanshu Mishra, Advocates.

versus

MR PRABHJOT SINGH DHILLON

..... Respondent

Through: Mr. Tanmaya Mehta, Mr. Krishna Gopal Abhay, Mr. Karmanya Singh Sareen, Mr. Sahib Singh Dhillon and Mr. Rinku, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

1. Petitioner has approached this Court challenging the Order dated 06.11.2023, passed by the Central Information Commission (hereinafter referred to as "the CIC").
2. The facts, in brief, leading to the present Writ Petition are as under:
 - a) It is stated that the Respondent herein filed an RTI application seeing information as to in how many cases the Aided School Branch, Department of Education has taken action against the teachers for taking private tuitions in the State of Delhi. It is stated that the Department of Education transferred the application of the Respondent to the concerned Public Information Officers (PIOs) of all districts.



- b) Aggrieved by the fact that the information sought for by the Respondent has not been given to him within the stipulated time, the Respondent filed a first appeal before the Appellate Authority. The said appeal was disposed of *vide* Order dated 28.04.2022 with a direction to the PIO (ASB) to pass directions for providing the information.
- c) A second appeal was filed by the Respondent which was disposed of vide an order dated 28.04.2023 with a direction to the PIOs to seek clarification from the Respondent regarding specific information which he wants for the specific time for which the information was required.
- d) On 09.06.2023, the Respondent wrote a letter to the PIO (ASB) stating that though the Respondent requires information for 10 years but keeping in mind the spirit of the Order passed by the CIC, the Respondent sought information only for a period of five years, i.e. from 01.01.2017 to 14.02.2022.
- e) Since no action was taken, proceedings under Section 18 read with Section 20 of the Right to Information Act, 2005 was initiated by the Respondent. On 06.11.2023, the CIC has passed the impugned Order observing that the PIO is treating the RTI application of the Respondent in a cavalier manner. The CIC also directed the PIO of the Aided School Branch to provide the relevant information to the Respondent herein within 60 days from the date of the said Order.
- f) Aggrieved by the said Order, the Petitioner has approached this Court.

3. At the outset, it is to be observed that the Petitioner has only



challenged an Order directing the Petitioner to comply with the Order passed by the CIC and the State has chosen not to challenge the principal Order by which the Petitioner has been directed to provide the information. A perusal of the material on record discloses that on the contention of the Petitioner that the record sought by the Respondent is very voluminous, the CIC had directed the Petitioner to ask the Respondent the specific time period for which he requires the said information and vide letter dated 09.06.2023 the Respondent had reduced the period for which the information was sought from ten years to five years.

4. Learned Counsel appearing for the Petitioner contends that the Department of Education has no control over unaided Schools and, therefore, it cannot provide for the information regarding action taken by the unaided Schools against their teachers for taking private tuitions. He further states that there is no direction from the Vigilance Department of the Department of Education to maintain a list of cases of misconduct. He also placed reliance on a Circular dated 01.11.2017 by which an application made under the RTI Act cannot be sent to private unaided schools as they are not public authorities amenable to the RTI Act. He states that since private schools are not under the RTI Act, the Respondent cannot seek for any information regarding unaided private schools.

5. Per contra, learned Counsel for the Respondent states that under the Delhi School Education Rules, 1973, if a private school intends to take major penalty against a teacher then it must authorization from the Department of Education and, therefore, it cannot be said the Department of Education does not have the requisite information.

6. Heard the Counsels for the parties and perused the material on record.

7. A Public Authority cannot take a stand that since the information



sought for is not available at one place and it will take a long time to collate the same, therefore, the information cannot be provided under the RTI Act. Difficulty in collating the information is not a ground under the RTI Act not to give the information. In view of the above, the disciplinary proceedings taken by Government and aided schools against teachers who take private tuitions can be made available to the Respondent as the information would be available with the Department though not at one place and has to be collated. Insofar as the information regarding teachers of private unaided schools is concerned, Rules 118, 120(1)(d)(iv) and 121(2) of the Delhi School Education Rules, 1973 stipulates that if a School intends to take a major penalty against a teacher then the approval of the Director of Education is necessary and without such an approval any action of major penalty cannot be imposed on the teacher. Therefore, information related to teachers of private unaided schools can be collated from the records of major punishment imposed by such schools.

8. Rules 118, 120(1)(d)(iv) and 121(2) of the Delhi School Education Rules, 1973 reads as under:

*“118. Disciplinary authorities in respect of employees
The disciplinary committee in respect of every
recognised private school, whether aided or not, shall
consist of:- (i) the chairman of the managing
committee of the school; (ii) the manager of the school;
(iii) a nominee of the Director, in the case of an aided
school, or a nominee of the appropriate authority, in
the case of an unaided school; (iv) the head of the
school, except where the disciplinary proceeding is
against him and where the disciplinary proceeding is
against the Head of the school, the Head of any other
school, nominated by the Director; (v) a teacher who is
a member of the managing committee of the school;
nominated by the Chairman of such managing*



committee.

120. Procedure for imposing major penalty (1) No order imposing on an employee any major penalty shall be made except after an inquiry, held, as far as may be, in the manner specified below:—

.....

.....

(d) the disciplinary authority shall consider the record of the inquiry and record its findings on each charge and if the disciplinary authority is of opinion that any of the major penalties should be imposed, it shall:—

.....

.....

.....

(iv) after considering the representation made by the employee against the penalty, the disciplinary authority shall record its findings as to the penalty which it proposes to impose on the employee and send its findings, and decision to the Director for his approval and while sending the case to the Director, the disciplinary authority shall furnish to him all relevant records of the case including the statement of allegations charges framed against the employee, representation made by the employee, a copy of the inquiry report, where such inquiry was made, and the proceedings of the disciplinary authority.

121. Payment of pay and allowances on reinstatement:

.....

(2) Where the managing committee is of opinion that the employee who had been dismissed, removed or compulsorily retired from service had been fully exonerated, the employee shall be paid the full salary and allowances to which he would



have been entitled had he not been dismissed, removed or compulsorily retired from service or suspended prior to such dismissal, or compulsory retirement from service, as the case may be: Provided that where the managing committee is of opinion that the termination of the proceedings instituted against the employee had been delayed due to reasons directly attributable to the employee, it may, after giving a reasonable opportunity to the employee to make representations and after considering the representation, if any, made by the employee, direct, for reasons to be recorded by it in writing, that the employee shall be paid for the period of such delay only such proportion of the salary and allowances as it may determine.”

9. A perusal of the abovementioned Rules indicates that if a Private/unaided School intends to take a major penalty against a teacher then the approval of the Director of Education is necessary and without such an approval any action of major penalty cannot be imposed on the teacher. In view of the above, the Petitioner must have the information regarding the penalty taken against a teacher for taking private tuitions in both Government and private schools.

10. As stated above, the fact that the information might not be available at one place cannot be reason to deny such an information. Efforts have to be made by the Department to collate the information and then give it to the Respondent.

11. The object of the RTI Act is to ensure transparency in the functioning of the Departments and this cannot be thwarted by the State Government on the ground that voluminous information is being sought and, therefore, the information cannot be provided. The Government also cannot deny



information on the ground that it will take time to collate the information.

12. In view of the above, this Court is inclined to dismiss the present Writ Petition with a direction to the Petitioner to provide the information sought for by the Respondent in respect of both Government and aided schools and in respect of private schools, the Petitioner is directed to provide information of all such cases where major penalty has been imposed on the teacher for taking private tuitions.

13. Since time given by the CIC in the impugned order is over, it is open to the Petitioner to approach the CIC for extension of time.

14. With these observations and directions, the Writ Petition is dismissed alongwith the pending applications, if any.

SUBRAMONIUM PRASAD, J

MAY 2, 2024

Rahul