$~106

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

\+ W.P.(C) 8834/2023 & CM APPL.-52066/2023

HEALTH AND FAMILY WELFARE DEPARTMENT GOVT OF NCT OF DELHI ..... Petitioner

Through: Mr. Anuj Aggarwal, ASC with Ms. Arshya Singh, Mr. Aakash Dahiya, Mr. Yash Upadhyay and Mr. Siddhant Dutt, Advocates.

versus

SH PRABHAT RANJAN ..... Respondent

Through: Mr. Karan Luthra and Mr. Naman Gowda, Advocates.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

O R D E R

% 18.03.2024

1. Petitioner has approached this Court challenging the Order dated 22.11.2022, passed by the Central Information Commission.

2. The facts, in brief, leading to the present Writ Petition are that the Respondent had approached the CPIO under the Right to Information Act seeking certain information from the Deen Dayal Hospital. It is stated that since the reply to the information sought was not given, the matter ultimately reached the CIC and the CIC has passed the following order:

> "*Keeping in view the facts of the case and the submissions made by both parties and after perusal of the documents available on record, the Commission observes that the Delhi is the national capital of a country of 1.4 billion and it is the primary*

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 27/03/2024 at 11:51:49

responsibility of the Delhi Government to ensure essential medical care to people from those sections of the society for whom medical care is unaffordable, particularly in emergency conditions The Commission can understand the inability of a small Government hospital like SDDNASC with its inadequacies to act in emergency situation. But the failure of the DDU Government Hospital to admit the pregnant patient when she was in an advanced stage of her delivery and in a condition when she needed urgent medical treatment citing lack of crucial equipment emergency medical care requirement is unacceptable. Further the commission also takes note of the Appellant's submission that his pregnant wife was under pre-delivery medical examination at SDDNASC but the said hospital didn't forewarn him of the impending complications. All in all the appellant and his wife had to face traumatic situation due to the inadequacy of the hospitals.

The case shows a lack of responsibility and accountability in the functioning of Government Hospitals and failure of the Delhi Government to equip them adequately. The Delhi Government, therefore, is liable to pay compensation to the appellant who has unduly suffered due to the lack of equipment and facilities in the Hospital. In view of the above, the Commission directs the Health and FW, Delhi Secretariat, to award Rs 75,000 as compensation to the appellant in a span of 30 days from the date of receipt of this order in keeping with transparency and accountability as enshrined in the RTI Act.

The Appeal stands disposed accordingly."

3. A perusal of the above-mentioned Order shows that the CIC has gone into the issue of deficiency in the Health Care provided by the Hospital. The

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 27/03/2024 at 11:51:49

Commission has commented on the failure of the Hospital to admit the wife of the Respondent herein, who was in the advance stage of pregnancy. The CIC has also commented on the responsibility and accountability in the functioning of Government Hospitals and failure of the Delhi Government to equip them adequately and has awarded a compensation of Rs.75,000/- to the Respondent herein. The Order passed by the CIC is completely outside its domain.

4. Section 19(8)(b) and Section 21 of the RTI Act 2005 reads as under:

> "*Section 19. Appeal.*
>
> *....*
> *.....*
> *....*
> *(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to--*
>
> *……*
> *……*
> *……*
> *(b) require the public authority to compensate the complainant for any loss or other detriment suffered;*
>
> ****
>
> *Section 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*

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 27/03/2024 at 11:51:49

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

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 27/03/2024 at 11:51:49

5. A perusal of the above-mentioned Sections show that the Commission can grant compensation to the applicant when the Commission is sure of any loss or other detriment suffered by the Applicant due to the delay in receiving information. Section 20 of the RTI Act gives power to the Commission to impose penalty on the ground that the Authority has refused to receive the an application for information or has not furnished information within the specified time or has not provided the information or has malafidely denied the information or has given incorrect, incomplete or deceiving information to the Applicant. None of the ingredients are present in this case.

6. Since the Order of the CIC is completely outside the domain of the CIC, this Court is inclined to set aside the Order of the CIC.

7. Accordingly, the Writ Petition is allowed. Pending applications, if any, stands disposed of.

8. This Court expresses its gratitude to Mr. Karan Luthra, learned Counsel, who has assisted this Court as *Amicus Curiae*.

9. It is also made clear that this Court has not made any observations regarding the quality of services provided by the Hospitals.

SUBRAMONIUM PRASAD, J

MARCH 18, 2024
Rahul

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 27/03/2024 at 11:51:49