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

+ W.P.(C) 6810/2024, CM APPL. 28324/2024

IRSHAD KHAN

.....Petitioner

Through: Mr. Abdul Salam, Advocate.

versus

CPIO, MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

14.11.2024

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1. The present petition impugns order dated 18th October, 2022 passed in second appeal No. CIC/EDMCS/A/2021/154391-UM titled as ***Mr. Irshad Khan Vs. CPIO*** passed by Central Information Commission,¹ whereby the Petitioner's second appeal has been decided with the following directions:

¹ "CIC"



1. मैंने आप के हॉस्पिटल में 13.10.2020 को दो पेज की रिक्वायर्त दी थी जिसका डागरी नं० 7206 है। उसकी एक कापी सलपीत करके मुझे उपलब्ध कराई जाये।
2. रिक्वायर्त के साथ जो मैंने एक ऑरिजनल मैमरा व दो मैमोरी कार्ड (4GB व 8GB) दिये थे उसकी क्या जाँच की गई है क्या एफएसएल जाँच भी कराई गई है तो उसकी भी कापी उपलब्ध कराये।
3. मेरा मैमरा व मैमोरी कार्ड कब तक वापस दे दिये जायेंगे इस की भी सुचना दे।

The CPIO vide letter dated 05.11.2021, furnished a reply to the Appellant. Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal. The order of the FAA, if any, is not on the record of the Commission.

Thereafter, the Appellant filed a Second Appeal before the Commission.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: Present in Person

Respondent: Mr K R Arya CMO Admin Present through AC

The Appellant while reiterating the contents of the RTI Application submitted that he had sought to know the action taken on the complaint lodged by him regarding the bribe asked by the hospital staff. He informed that he had submitted the memory card and camera having the video recording of the said incident with the hospital but the hospital staff wilfully misplaced these even after receiving it.

The respondent denied the allegations and averred that the staff had received only papers from the Appellant and no memory card or camera was ever submitted by the Appellant. The Appellant is claiming absolutely wrong facts, he averred. He further said that a suitable reply as per the provisions of the RTI Act has already been furnished to the Appellant vide letter dated 05.11.2021.



DECISION:

Keeping in view the facts of the case and the submissions made by both the parties, the Commission directs the CPIO to re-examine the matter and furnish a correct and suitable information to the Appellant, protecting the provisions of Section 8 of the RTI Act, strictly in accordance with the spirit of transparency and accountability as enshrined in the RTI Act, 2005 within a period of 30 days from the receipt of this order under the intimation to the Commission.

The Commission further directs the Medical Superintendent East Delhi Municipal Corporation Swami Dayanand Hospital Shahdara, to conduct an inquiry in the said matter and if required and take appropriate action against the erring personnel in case it is found that the RTI application was not replied deliberately and with the mala fide intention or due a careless approach which is untenable in case of such a serious nature affecting the life and property of the appellant. A copy of the enquiry report along with the action taken report may be provided to the Commission as well as to the Appellant within a period of two months from the date of receipt of this order under intimation to the Commission.

The Appeal stands disposed accordingly.

(Uday Mahurkar) (उदय माहुरकर)
(Information Commissioner) (सूचना आयोग)

Authenticated true copy
(अभिप्रायित सत्य प्रतिलिपि)

(R. K. Rao) (आर.के. राव)
(Dy. Registrar) (डिप्टी-रेजिस्ट्रार)
011-26182598
दिनांक / Date: 18.10.2022

2. According to the Petitioner, the impugned order is bad in law, in as much as the CIC has not taken any action under Sections 20(1), 20(2) and 19(8)(b) of the Right to Information Act, 2005. He submits that the CIC ought to have imposed penalties on the CPIO, and awarded compensation to the Petitioner.
3. The Court has considered the aforementioned contentions, but finds no



merit in the same. The impugned order clearly takes note of the factual background, and directs the Medical Superintendent, East Delhi Municipal Corporation, to conduct an enquiry into the matter, and if required, take an action against the erring personnel in case it is found that the RTI application was not replied to, deliberately. Thus, in the opinion of the Court, the CIC has issued adequate directions to address the Petitioner's request. In so far as the question of imposition of penalty is concerned, the same cannot be the subject matter of challenge in writ petition, in view of the judgment of the Division Bench in *Ranajit Roy v. State (NCT of Delhi)*.²

4. Accordingly, the Court finds no merit in the present petition and accordingly, the same is dismissed along with pending application.

SANJEEV NARULA, J

NOVEMBER 14, 2024

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² 2022 SCC OnLine Del 4486