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

+ **W.P.(C) 7801/2024**

ATEET BANSAL

..... Petitioner

Through: Mr. Vivek Kumar Tandon and Ms.
Prerna Tandon, Advocates with
Petitioner in-person.

versus

ADDITIONAL DEPUTY COMMISSIONER OF POLICE SOUTH

..... Respondent

Through: Ms. Rachita Garg and Mr. Agam
Rajput, Advocates with SI Dilip
Kumar.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

28.05.2024

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CM APPL. 32333/2024 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 7801/2024

1. Petitioner has approached this Court under Article 226 of the Constitution of India with the following prayers:

“a) Direct the respondent to comply with the direction dated 23.08.2019 in letter and spirit and provide the documents as asked for in the RTI Application dated 18.07.2017 and the order passed by CIC dated 23.08.2019.

b) Take cognizance of the illegality submitted by the respondent and take appropriate action in accordance with law.



c) To initiate disciplinary action against the respondent in terms of the provisions under Section 20(2) of the RTI Act, 2005.”

2. The facts, in brief, as stated in the Writ Petition are that on 02.06.2017 the Petitioner made five calls to 100 PCR from his mobile No. 9911387864. It is stated by the Petitioner that he received confirmatory messages about the calls made to the PCR. It is stated that since no action was taken on his calls, the Petitioner filed an application under the Right to Information Act, 2005 seeking information as to what action has been taken by the Police on his calls made on 02.06.2017. It is stated that on 22.08.2017 a reply to the RTI application of the Petitioner was received stating that no PCR calls have been received at Police Station Saket and Police Station Neb Sarai from mobile No. 9911387864. It is stated that aggrieved by the reply of the CPIO, the Petitioner filed an appeal before the First Appellate Authority and the First Appellate Authority directed the ACP/Mehrauli and Hauz Khas Sub Divisions South District, New Delhi to provide complete information. Since no satisfactory response was received even from the First Appellate Authority, the Petitioner herein filed a second Appeal before the Central Information Commission (CIC). The CIC *vide* Order dated 23.08.2019 held that the response provided by the Additional DCP cum CPIO, South District, was not correct and complete as the information sought by the Petitioner herein was available with the Police Station Mehrauli which falls within the control and jurisdiction of the South District and the information should have been obtained by the Additional DCP cum CPIO from the custodian of information and provided to the Petitioner herein. The CIC, therefore, imposed penalty on the Additional DCP cum



CPIO under Section 20(1) of the RTI Act and directed the Registry to issue a Show Cause Notice to Shri Chinmoy Biswal, CPIO & Additional DCP, South District, for explaining as to why action under Section 20(1) of the RTI Act should not be initiated against him. In terms of the said Order, a Show Cause Notice was issued to Shri Chinmoy Biswal and the matter was heard on 15.11.2019 and the CIC *vide* Order dated 29.11.2019 dropped the Show Cause Notice and penalty against Shri Chinmoy Biswal.

3. The Order dated 23.08.2019 was challenged by the Petitioner by filing a Writ Petition being W.P.(C) No.1233/2020 before this Court. This Court *vide* order dated 04.09.2023 passed the following Order:

"1. The petitioner, who appears in person, seeks permission to withdraw the present writ petition with liberty to initiate such proceedings as may be permissible in accordance with law.

2. Permission and liberty, as prayed for, are granted.

3. The writ petition is dismissed as withdrawn, alongwith pending application(ss), if any."

4. Contending that the CIC ought not to have dropped the Show Cause Notice against Shri Chinmoy Biswal, the Petitioner has approached this Court challenging the very same Order against which the abovementioned Writ Petition was filed by the Petitioner which was dismissed as withdrawn.

5. The CIC in its Order dated 29.11.2019 has categorically mentioned that due to non registration of the call of the Petitioner in the daily diary by the concerned person on duty, the CPIO was not able to ascertain as to whether a call from the mobile of the Petitioner herein was received or not. The CIC has further held that on the basis of the available information the



reply was furnished to the Petitioner and there was no conscious or deliberate attempt on the part of the CPIO to withhold the information sought by the Petitioner and it cannot be said that information was malafidely withheld by the CPIO and, therefore, the order of penalty has been dropped.

6. A perusal of the Order disposing of the first appeal of the Petitioner indicates that the requisite information has been furnished to the Petitioner. Relevant portion of the decision of the first Appellate Authority reads as under:

“The undersigned has carefully examined the contents of the appeal, RTI request dated 18.07.2017 of the appellant and found that the PIO/SD has supplied requisite information on the basis of report received from ACP/Mehrauli & Hauz Khas, Sub Divisions, South District, New Delhi (Principal supplier of the information and deemed PIO u/s 5 (4) & 5 (5) under RTI Act, 2005) vide his office letter No. (1783) 13907/RTI Cell/SD dated 22.08.2017 to the appellant within the stipulated time :frame under the provision of RTI Act- 2005. It is necessary to mention here that the PIO/SD can provide the information which is held or under his control and he (PIO) cannot generate/create the information under RTI Act, 2005. However, during the course of appeal ACP/Mehrauli & Hauz Khas, Sub Divisions, South District, New Delhi were directed to provide the complete information on the instant appeal. Accordingly, they have furnished the required information and the same is being sent to the appellant alongwith instant appeal order, which is self explanatory into the matter.”

7. The appeal was limited to the issue as to whether there was delay in



furnishing the information or not and not as to whether the requisite information has been furnished to the Petitioner or not. The finding of the Appellate Authority that the requisite information has been supplied has not been disturbed by the CIC. The CIC was only concerned with the delay in furnishing the information which has now been dropped by the CIC on the basis of the reply given by the CPIO to the Show Cause Notice issued by the CIC.

8. The Petitioner has filed the W.P.(C) No.1233/2020 challenging the very same Order dated 23.08.2019 which was withdrawn by an Order dated 04.09.2023. The second writ petition which challenges the very same Order dated 23.08.2019 is, therefore, not maintainable. In any event, this Court is of the opinion that the information sought for has already been provided and the CIC was only concerned with the delay in providing the information. This Court is satisfied that the Show Cause Notice has been dropped on valid grounds

9. In view of the above, this Court is not inclined to entertain the present Writ Petition.

10. Accordingly, the Writ Petition is dismissed, along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

MAY 28, 2024

Rahul