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

\+ W.P.(C) 13584/2023

SHAKUNTALA DEVI ..... Petitioner

Through: Ms. Tanvi Jain, Mr. Shaurya Krishna, Mr. Shubham Niwas and Mr. Amit Garg, Advocates.

versus

CENTRAL BOARD OF DIRECT TAXES & ANR. ..... Respondents

Through: Mr. Puneet Rai, Sr. Standing Counsel with Mr. Ashvini Kumar and Mr. Rishabh, Standing Counsels for Income Tax Department.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

<u>O R D E R</u>

% **29.04.2024**

1. The Petitioner has approached this Court challenging the reply given by the CPIO, CBDT on 15.02.2023 in compliance with the Order dated 30.01.2023 passed by the Ld. Central Information Commission (CIC).

2. The Petitioner had approached the CPIO, CBDT by filing an application dated 29.12.2021 under the RTI Act seeking the following information:

> *"1. The Honourable Bench of Lokpal of India has directed to Concerned Department i.e. Department of Revenue for compliance of the above judgment order through his direction letter. Kindly provide me a copy of the above direction letter along with all enclosures*

such as a copy of CBI's inquiry Report etc.

2. A copy of the guidelines / letter issued / reiterated by Revenue Secretary, Government of India, to the CBDT on the lines of the Judgment.

3. A copy of CBI's preliminary inquiry report submitted to the Revenue Secretary along with copy of Judgment. If you are not competent Authority to provide said information kindly transfer my application to the appropriate authority under section 6(3) of the said act."

3. Dissatisfied by the inaction on the part of the CPIO, CBDT, the Petitioner ultimately approached the Ld. CIC which passed the following direction *vide* Order dated 30.01.2023:

"Decision:

The Commission is irked by the shoddy conduct of the CPIOs, CBDT authorities in having transferred the instant RTI Application back and forth amongst their various wings without providing any material information to the Appellant till date. Moreover, the CPIO, CBDT did not even bother to enquire from their concerned wings/ departments, about the final action taken on the instant RTI Application before making his oral submissions before the Commission.

In addition to the above, absence of the CPIO, O/o CIT (A&J), CBDT, New Delhi during hearing without intimating any reasons thereof amounts to a gross disregard for the proceedings of the Commission as well as the provisions of the RTI Act. Such colossal conduct of the incumbent CPIOs tantamount to causing unwarranted obstruction to the Appellant's right to information and also is in grave violation to the provisions of RTI Act.

In view of the above, the concerned CPIO, CBDT (at the time of receipt of RTI Application) and also the present CPIO, O/o CIT (A&J), CBDT, New Delhi are hereby directed to send their written explanations to show cause with the Commission as to why action should not be initiated against him under Section 20 of RTI Act for not giving substantial timely response coupled with relevant information upon receipt of RTI Application to the Appellant and also for their absence before the Commission during hearing.

The aforesaid written explanation the CPIO along with supportive documents, if any should reach the Commission within 15 days from the date of receipt of this order.

Further, ***a copy of this order is marked to the Chairperson, CBDT to take note of the lax approach of their CPIOs in dealing with a simple request for information. The repeated and aimless transfer of the instant RTI Application and the failure to provide any information to the Appellant within the stipulated time frame of the RTI Act upon a grossly evasive approach of the Respondent authorities and raises a reasonable doubt regarding the standards of probity and transparency adopted across their offices.***

Now, in the interest of justice, the Commission directs Ghanshyam Kumar present CPIO, CBDT (Hqr.) to take all the necessary steps to procure the available information as sought for in the instant RTI Application from the concerned record holder and provide it directly to the Appellant as per the provisions of RTI Act. The said information should be provided free of cost to the Appellant within 15 days from the date of receipt of this order under due intimation to the Commission."

4. Pursuant to the aforesaid Order dated 30.01.2023, the CPIO, CBDT on 15.02.2023 gave the following reply:

F.NO.DIR(HQRS)/CH(DT)/50(08)/2022-23/05
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Direct Taxes)

Room No.255, North Block,
New Delhi, 15th February,2023

To

Ms. Shakuntla Devi,
43-B, Narendra Vihar Ext., Kaulagarh Road,
Rajendra Nagar, Dehradun – 248001

Sub: Implementation of CIC decision dated 30.1.2023 in the RTI application dated 29.12.2021 of Smt. Shakuntla Devi – reg.

Ref. CIC Order in File No.CIC/CBDDT/A//2022/612578 dated 30.01.2023.

Madam,

Kindly refer to the above mentioned subject and direction of CIC to CPIO/Deputy Secretary(Hqrs), CBDT (copy enclosed) to take all the necessary steps to procure the available information as sought for in the instant RTI application from the concerned record holder and provide it directly to the Appellant as per the provisions of RTI Act. As directed, information from the Custodian of the information, viz. CPIO & DDIT (Vig.) O/o DGIT (Vig.), CBDT, New Delhi was sought and reply as received from him is as under:

Information sought	Reply given by CPIO & DDIT (Vig.) O/o DGIT (Vig.), CBDT
1. The Honorable Bench of Lokpal of India has directed to Concerned Department i.e., Department of Revenue for compliance of the above judgement order through his direction letter. Kindly provide me a copy of the above direction letter along with all enclosures such as a copy of CBI's inquiry Report etc.	Directions were issued by the Honorable Bench of Lokpal of India vide its Order dated 10.12.2021 which was forwarded to Revenue Secretary through letter No.C-12016/56/2020-Lokpal/1612 dated 10.12.2021 of Deputy Registrar, Lokpal of India.
2. A copy of the guidelines / letter issued / reiterated by Revenue Secretary, Government of India, to the CBDT on the lines of the Judgement.	The above mentioned Judgement of The Honorable Bench of Lokpal of India alongwith its enclosures were marked down by the Revenue Secretary to Chairman, CBDT who further marked it to DGIT (Vig), CBDT for action as appropriate.

3. A copy of CBI's preliminary inquiry report submitted to the Revenue Secretary along with copy of Judgement.	1. It is pertinent to mention that the Lokpal order is in respect of Departmental officers and the appellant is not one of them. CBI report contains multiple information related to the officers complained against which are in the nature of "personal information". Therefore, the information sought cannot be shared with the appellant as per the provisions of the Section 8(1)(j) of the RTI Act. 2005. 2. Now, this is also worth mentioning that in this matter enquiry proceedings are underway as directed by the Lokpal and giving information to the appellant at this stage could impede the process of investigation. Hence, as per section 8(1)(h) of the RTI Act, 2005, the information sought by the applicant is also liable to be rejected. 3. Moreover, the copy of the preliminary inquiry report of the CBI is held by the Department in fiduciary capacity as the same was conducted under the direction of Hon'ble Lokpal and has been provided to Department to reach to a decision on the further enquiry against the officers mentioned therein. Therefore, the copy of the report also cannot be shared with the appellant in terms of the section 8(1) (e) of the RTI Act 2005.

Yours faithfully,

15.02.2023

(Ghanshyam Kumar)

CPIO & DS (Hqrs.)

5. It is the case of the Petitioner that the aforesaid reply given by the CPIO, CBDT is mere lip service and the Order dated 30.01.2023 passed by the Ld. CIC has yet not been complied with. It is stated that the Petitioner

has also sent a letter dated 25.02.2023 to the Ld. CIC stating that the Order dated 30.01.2023 passed by it has not been complied with.

6. The remedy of the Petitioner would lie under the RTI Act itself which is to either file an appeal or to intimate the non-compliance of the Order passed by the Ld. CIC which the Petitioner has already done by writing a letter dated 25.02.2023.

7. At this juncture, this Court is not inclined to entertain the present writ petition since the Ld. CIC is in seisin of matter. The Ld. CIC is directed to ensure that Orders passed by it are complied with in letter and spirit.

8. The writ petition is being disposed of with a direction to the Ld. CIC to dispose of the letter dated 25.02.2023 sent by the Petitioner within a period of four weeks from today. Pending applications, if any, also stand disposed of.

9. Liberty is granted to the Petitioner to approach this Court again in case need so arises in future.

SUBRAMONIUM PRASAD, J

APRIL 29, 2024
S. Zakir