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

\+ W.P.(C) 16789/2022

CENTRAL PUBLIC INFORMATION OFFICER, PUNJAB NATIONAL BANK .....Petitioner

Through: Mr. Divyanshu Sahay, Ms. Shradha Narayan and Mr. Akshay Sahay, Advocates.

versus

CENTRAL INFORMATION COMMISSION & ANR. .....Respondents

Through: Mr. Jatin Teotia and Mr. Samarth Talesara, Advocates for R-2.

**CORAM:**
**HON'BLE MR. JUSTICE SANJEEV NARULA**

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

% **13.11.2024**

1. The present petition has been filed by the CPIO and the deemed CPIO of Punjab National Bank, impugning order dated 10th October, 2022,[1] passed by Respondent No. 1/ Central Information Commission[2] in Second Appeal No. CIC/PNBNK/A/2020/112074 under the Right to Information Act, 2005.[3] Through the said order, the CIC decided the second appeal preferred by the Respondents with respect to RTI application dated 19th December, 2019, and also imposed penalties and issued further directions to the Petitioners.

2. The impugned order has also been the subject matter of challenge at

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[1] "impugned order"
[2] "CIC"
[3] "RTI Act"

the instance of the Bank in W.P.(C) 16793/2022, which has been decided through a separate order passed today.

3. The facts and the background leading to the filing of the second appeal have been noted in the said order and thus, need not be replicated here.

4. In the instant case, the grievance of the Petitioners pertains to the directions issued in Paragraph No. 6.1 of the impugned order, whereby the CIC has imposed a penalty on the Petitioners on account of findings of negligence of duty. The reasons for imposing the said penalty have been discussed in Paragraph No. 6 of the impugned order, which reads as follows:

> *"6. The Commission after adverting to the facts and circumstances of the case, hearing both the parties and perusal of records, observed that the respondent submitted their written explanations on 24.06.2022 and 28.06.2022. Prima facie, they submitted that the letter sent by the CL Bhalla DAV Senior Secondary School on 13.07.2012 was considered as the account opening form. Assuming, the letter was opening form, the account opened as savings bank in the name of the appellant should have been operated by him. Moreover, as per the instructions given by Education Officer on 04.05.2012, permission was given to open a GPF account and not a savings account. On one hand, the respondent submitted that the account no. xxxxxxx2769 was a savings account which must be operated by the individual or account holder. On the other hand, they contradicted themselves by stating that the account was being operated by introducer i.e. by the Principal of the College. This was directly causing loss to the public ex-chequer by diverting the funds in the name of GPF account which was opened as savings account and could be termed a benaami transaction. Moreover, the respondent did not provide any reasonable explanations for the delay and non-response to the RTI application despite over three years having elapsed. Although, the East Delhi came into existence in 2020, the second appeal was filed in March 2020 by the appellant and the Branch had sufficient time to respond. Therefore, the respondent may not take internal administrative procedures as grounds to evade the responsibility to deal with RTI applications within prescribed time lines. It may be noted that the appellant did not have any access to the operations of the account although the account was opened in the name of the appellant. It is apparent that there was malfeasance on the part of the officials as the*

*account was opened by the Principal of CL Bhalla DAV Senior Secondary school in connivance with the bank officials. Further, the information was provided by the respondent in compliance of the Commission's order which was available under the custody of the respondent all along. This establishes the fact that the information was withheld deliberately. The explanations submitted by the CPIOs are not satisfactory. Moreover, the delay caused in furnishing the reply/information which was in their custody all along was not justified by the respondent. In view of the mala fide on part of both the CPIOs, the Commission finds it a fit case for imposition of penalty under provisions of section 20 (1) of RTI Act.*
*6.1. The Commission notes that the negligence of duty as designated CPIOs appears to be deliberate and mala fide is established on part of both Ms. Rachna Prasad, CPIO, East Delhi, and Mr. Ranjeet Kumar, deemed PIO, hence, both are found liable as per section 20 (1) of RTI Act. In view of this, a penalty of Rs. 10,000/- (Rupees Ten Thousand only) may be imposed on both and Rs. 10,000/- shall be deducted from each of their salaries of Ms. Rachna Prasad, CPIO, East Delhi, and Mr. Ranjeet Kumar, deemed PIO, in equal monthly instalments by the Public Authority and paid by way of demand draft drawn in favour of "PAO, CAT", New Delhi, forward the demand drafts addressed to the Deputy Registrar (CR-II), email: dyregcr2-cic@gov.in Room No. 106, First Floor, Central Information Commission, Baba Gangnath Marg, Munirka, New Delhi 110067. The first instalment of penalty amount should reach to the Commission by 30.11.2022 and final instalment should reach the Commission by 30.12.2022. Moreover, the Commission recommends disciplinary action/criminal action be initiated by the Public Authority against the officials responsible for opening of the account a/c no. *************769, maintained in PNB Pahar Ganj Branch, Delhi by referring the matter to CBI, and a compliance report be submitted to the Commission within two months. With these directions, the appeal is disposed of."*

5. In W.P.(C) 16793/2022, the Court has already set aside the observations made by the CIC regarding the alleged malfeasance on part of the Bank officials, on the ground that that the CIC transgressed its jurisdiction in recommending criminal action by referring the case to CBI. Nonetheless, a perusal of Paragraph No. 6 extracted above, reveals that the issuance of the impugned directions is premised on the CIC's observation that there was unnecessary delay on part of the Petitioners in supplying the

information sought by the Applicant, Respondent No. 2.

6. On this aspect, Ms. Rachna Prasad, Petitioner No. 1, has explained that the RTI application in question dated 19th December, 2019 was only brought to her notice on 13th May, 2022, and not earlier than that. She has explained that the information sought by Respondent No. 2 pertained to Pahar Ganj branch of the Bank, which was under the administrative control of the New Delhi Circle Office of the Bank. Consequent to administrative changes brought about on merger of Oriental Bank of Commerce and United Bank of India into the Petitioner Bank with effect from 01st April, 2020, the Pahar Ganj branch office came under the administrative control of the East Delhi Circle, which came into existence and operation with effect from 22nd June, 2020. However, the then CPIO of New Delhi Circle did not transfer the RTI application to the East Delhi Circle for disposal as per the RTI Act. Petitioner No. 1, was thus, not aware of the pending application when she was designated as CPIO of the East Delhi Circle by the Circle Head on 27th August, 2021. As noted above, it was only on 13th May, 2022 that the RTI application of Respondent No. 2 came to her notice. On becoming aware of the same, she wrote to the erstwhile New Delhi Circle Office as well as the Pahar Ganj branch office, seeking papers and accompanying records pertaining to the request of Respondent No. 2. Thereafter, on 18th May, 2022, Petitioner No. 1 received the RTI application for disposal. On the very next day, she wrote an email to the deemed CPIO (Petitioner No. 2), seeking assistance under Section 5(4) of the RTI Act, and urgently requested for the information from the Pahar Ganj branch office, *i.e.*, the deemed CPIO, who had joined the said branch on 05th August, 2021.

7. Between 20th May, 2022 and 27th June, 2022, the deemed CPIO

collected the information and furnished the requisite information by e-mails dated 23rd May, 2022, 30th May, 2022 and 24th June, 2022. The said information was then furnished by Petitioner No. 1 to Respondent No. 2 through letter dated 27th June, 2022. Thus, there was a total delay of merely 15 days on the part of Petitioners in providing the information sought by Respondent No. 2.

8. Counsel for Respondent No. 2 strongly opposes interference of this Court, urging that the facts of the case justify the imposition of penalty on the Petitioners. Without prejudice, he submits that even if the aforenoted facts are taken into account, yet admittedly, there is a delay of 15 days on the part of the Petitioners in providing information to Respondent No. 2, which warrants the imposition of penalties.

9. The Court has considered the submissions of the parties. At the outset, it must be noted that ordinarily, the Court would not interfere with the imposition of the penalty imposed by the CIC in writ proceedings. However, having regard to the peculiar facts and circumstances of this case, it is pertinent to note that the imposition of penalty stems from the CIC's finding of malfeasance on the part of the officials of the Bank. As already noted in the order passed by this Court in W.P.(C) 16793/2022, the CIC, in making such observations acted outside its jurisdiction, and therefore, proceeded to affix the responsibility for the delay under an erroneous premise. Furthermore, the CIC failed to take into consideration the Petitioners' contentions and the circumstances that led to the delay in supplying the information to Respondent No. 2, thereby erroneously attributing the same to the Petitioners. In light of the aforenoted facts, the CIC's observation that there was negligence of duty and *mala fide* on the part of Petitioners, in the

opinion of the Court, are not called for.

10. At this stage, it must also be noted that on 07th January, 2018, Respondent No. 2 had submitted an earlier RTI application, seeking information regarding the GPF accounts maintained by a school with the Bank. The said enquiries are as follows:

> *"Provide the following information :-*
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> *1. Whether the P.F. Commissioner has authorised PNB as trustee of General Provident Fund to maintain the same of the employees of any Govt. Aided School of Delhi. If yes, provide the information for the same.*
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> *2. Whether the P.F. Commissioner has also authorised as Trustee / Member of G.P.F. Committee to your Paharganj, New Delhi Branch to operate the General Provident Fund of Staff C.L. Bhalla D.A.V. Sr. Sec. (Govt. Aided) School, Jhandewalan, New Delhi. If yes, provide the relevant rules.*
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> *3. Please provide the details of accounts with names for which management C.L. Bhalla D.A.V. Sr. Sec. (Govt. Aided) School are depositing the subscription of General Provident Fund in your Paharganj, New Delhi Branch.*
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> *4. Provide the nature of Account Number 0130000121222769 (maintained in your Paharganj, New Delhi Branch) along with the rate of interest given by Bank against this account w.e.f. opening to till date.*
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> *5. As per rule only the account holder of saving bank account/R.D. Bank Account may operate his account for the purpose of deposition and withdrawal of money. Please provide the rule and details under which the Saving A/c No. 0130000121222769 & R.D. Account No. 0130007600001211 maintained in your Paharganj, New Delhi Branch are being operated by Mr. Arun Arya and Brig. Ashok Kumar Adalkha without authorisation by the account holder i.e. Shyam Kunvar.*
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> *6. In the passbook issued by your Paharganj, New Delhi Branch for Saving A/c No. 0130000121222769 & R.D. Account No. 0130007600001211 are showing "Shyam Kunvar GPF Account C.L. Bhalla D.A.V. Senior Secondary School". Please clarify what it (GPF) stands? If these are GPF Accounts, under which rule the T.D.S. is being deducted on the interest amount of these accounts? and please further clarify why the rate of interest fixed by Govt. for GPF is not being given against the account number 0130000121222769."*

11. The proceedings with respect to the aforesaid application also travelled up to CIC, which was then adjudicated through order dated 15th November, 2021, whereby the CIC imposed penalty on the erstwhile CPIOs, Sh. Anil Thakur and Sh. N. M. Jain, based on findings of negligence of duty.

12. In view of the foregoing, since penalties have already been imposed on CPIOs in relation to queries overlapping with those sought in the instant RTI Application, the penalties imposed by the CIC on the Petitioners were entirely uncalled for, and are therefore, liable to be set aside. Accordingly, the petition is allowed. The penalties imposed on the Petitioners in the impugned order are set aside.

13. With the above directions, the petition is disposed of.

**SANJEEV NARULA, J**

**NOVEMBER 13, 2024**
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