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

\+ W.P.(C) 16793/2022

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 Petitioner, Punjab National Bank, has filed the present petition assailing order dated 10th October, 2022,[1] passed by Respondent No. 1 in Second Appeal No. CIC/PNBNK/A/2020/112074 under the Right to Information Act, 2005.[2]

2. Respondent No. 2 had filed an application dated 19th December, 2019 under the RTI Act before the Central Public Information Officer,[3] Punjab National Bank, Dwarka, New Delhi, seeking the following information:

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

To,

The Public Information Officer
Punjab National Bank,
Head Office (MARD), 2nd Floor,
East Block, Sector – 10, Dwarka, New Delhi – 110008

Sub:- Application under R.T.I. Act – 2005.

Sir,

I am the bonafide customer and accountholder of Saving Fund A/c No. – 0130000121222769, FDR A/c No. – 0130000P00024927 (now closed) & RD A/c No. – 0130007600001211 (now closed), maintained in P.N.B. Pahar Ganj Branch, Delhi, hence entitled to get any information regarding these accounts. Please provide the following information :-

1. Certified copy of initial application/form 2012 applied to be open the above said Saving A/c No. along with detail of then Bank Manager/Authority Name, Present Posting, Home Address in case of retired etc. who finally approved this account.
2. Detail as per Question No. – 1 in respect of R.D. and F.D.R. A/c Nos. opened in 2013.

Prescribed fee Rs. 10/- is enclosed vide I.P.O. No. – 47F 211778.

COUNTERFOIL
To be detached and kept by the Sender.
₹10
POSTAL ORDER
To whom payable PNB

Dt. : 19-12-2019

Applicant
Shyam Kunvar
Shyam Kunvar
4-C / 3034, Vasundhara,
Ghaziabad (U.P.) – 201012
Mobile No. 9210100162
Email Id : meshyamkunvar@gmail.com

3. The CPIO did not provide any response to the aforesaid application filed by Respondent No. 2. Aggrieved, he preferred a first appeal dated 27th January, 2020. The First Appellate Authority did not pass any order, constraining Respondent No. 2 to file a second appeal dated 12th March, 2020 before the Central Information Commission,[4] which has been decided through the impugned order. The relevant portion of the impugned order has

been reproduced hereunder:

"5. The appellant and on behalf of the respondent Ms. Rachana Prasad, CPIO & Chief Manager, Ms. Meenakshi Singh, Senior Manager (Law), and Shri Ranjeet Kumar, Chief Manager, Punjab National Bank, Delhi attended the hearing in person.

5.1. The appellant inter alia submitted that the respondent had not complied with the directions of the Commission. They had not provided the copy of account opening form. The appellant further stated that the A/c No. xxxxx2769 was a savings account at 3.5%, contrary to the fact that the Education officer, Zone 28 had accorded the permission to open a GPF account and not a savings account vide letter dated 04.05.2012. Further, as per the Delhi Education Rules, 1973, the General Provident Fund of the employees shall be kept in a nationalized bank or Post Office. However, the respondent bank opened savings account with rate of interest @ 3.5% instead of GPF account with rate of interest 8.5% and that surplus amount was being utilized by the bank for the purpose of giving personal loan and other loan with higher rate of interest. Therefore, the respondent had provided false, misleading information and had concealed facts before the Commission.

5.2. The respondent (Ms. Rachna Prasad, CPIO) while defending their case submitted her written explanations (sent on 28.06.2022) that the East Delhi Circle came into existence in June 2020 and, therefore, B.O. Paharganj came under East Delhi Circle. The CPIO further stated that the RTI was never transferred to them by New Delhi Circle, therefore, no notice was received by them and they were unable to respond to the RTI application or RTI Appeal. They pleaded that their intentions were never deliberate and it was not that there was disregard towards RTI or any order passed by CIC as they were never aware of the same. The respondent further stated that they had replied to the appellant vide letter dated 27.06.2022 in compliance of the Commission's directions and the same is reproduced as under:

> *"The savings a/c XXXXX2769 was opened by letter dated 13.07.2012 from C.L. Bhalla DAV Senior Secondary School. A copy of the same is enclosed along with the permission dated 04.05.2012 from Office of the Education Office, Zone 28, District Central, NCT, Delhi and excerpt of "The Delhi School Education Rules, 1973". The letter dated 13.07.2012 is itself account opening form.*
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> *The name of the account holder is Mr. Shyam Kunvar; a copy of*

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[4] "CIC"

certificate from CBS is enclosed.

The terms and conditions in which the account was opened-the permission dated 04.05.2012 from Office of Education Officer-Zone 28, and excerpt of "The Delhi School Education Rules, 1973" is already enclosed.

The details of introducer- C.L. Bhalla DAV Senior Secondary School; copy of certificate from CBS is enclosed;

The signature card and details of person authorized to operate the account-the letter dated 13.07.2012 from C.L. Bhalla DAV Senior Secondary School is already enclosed as reply in point no. 1

PAN No. xxxxxxx22A copy of PAN verification is enclosed

FDR No. xxxxxx4927 was opened on 24.07.2015 and closed on 25.04.2016; copy of account statement enclosed;

RD A/c no. xxxx1211 was opened on 16.07.2013 and closed on 25.04.2016."

Shri Ranjeet Kumar, deemed CPIO, also submitted his written explanation on 24.06.2022 wherein he stated that the letter dated 13.07.2022 from CL Bhalla DAV Senior Secondary School along with the letter dated 04.05.2012 from Education Officer, Zone-28 was considered while opening the account. The school was the introducer in that case and the account was opened in the name of the appellant.

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.*

Copy of the decision be provided free of cost to the parties."

4. Paragraph No. 5.2 of the impugned order categorically records the

Petitioner's reply to the information sought by Respondent No. 2. Thus, in so far as supply of information *qua* the RTI Application is concerned, the directions of the Commission have been complied with.

5. The Petitioner's grievance, which is strongly refuted by the Respondents, stems from the observations made in Paragraph Nos. 6 and 6.1 of the impugned order, wherein the CIC has formed a *prima facie* opinion with respect to certain disputed facts, and reached the conclusion that there was a malfeasance on part of the officials of the Petitioner Bank. These observations of the CIC have been recorded in the impugned order in the following terms:

> *"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."*

6. Further, in Paragraph No. 6.1 of the impugned order, the CIC while finding negligence of duty on part of the designated CPIOs, has imposed penalties and also recommended disciplinary action/ criminal action to be initiated by the Petitioner Bank against the officials responsible for opening the account maintained with the Bank, by referring the matter to the Central Bureau of Investigation.[5] Furthermore, the CIC has directed them to submit a compliance report to the said effect, within 2 months of the impugned order.

7. The aforenoted directions and observations made by the CIC are *ex facie* beyond the jurisdiction of the CIC. The CIC is not a Court, nor does it exercise plenary jurisdictions. Rather, it is a statutory body constituted under Section 12 of Act, and its powers and functions are strictly governed by the

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[5] "CBI"

provisions of the statute, *i.e.*, the RTI Act. Sections 19 and 20 of the Act define and delineate the powers of the CIC. Under the scheme of the Act, Section 19(1) enables the party aggrieved by the decision or inaction of the CPIO, to prefer an appeal against the same. Furthermore, under Section 20 of the Act, the CIC, at the time of deciding of complaint or appeal, also has the power to impose penalty or recommend for disciplinary action if it is of the opinion that the CPIO 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 or has *malafidely* denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which has been subject of the request or obstructed in any manner in furnishing the information. Moreover, Section 19(8) of the Act delineates the powers of the CIC to require the public authority to take necessary steps to ensure compliance of the provisions of the Act.

8. A conjoint reading of the aforenoted provisions clearly defines the contours of the powers bestowed upon the CIC, mandating them to act within the boundaries of Sections 19 and 20. This Court, in ***Shobha Vijender v. Chief Information Commissioner***,[6] categorically noted that Section 19(8) of the Act does not empower the CIC to issue any directions except as specified therein.

9. Accordingly, as per the framework of the Act, it was impermissible for the CIC to have assumed the role of an adjudicator or give any observations of malfeasance, while deciding an appeal. Furthermore, while the CIC is vested with the power to impose penalties and recommend

disciplinary action under the Act, it did not have the authority to issue a direction to the Petitioner Bank for initiating criminal action against the CPIO by referring the matter to CBI. The issuance of the impugned directions indicates that the CIC, in the instant case, assumed plenary powers, thereby transgressing the mandate of Sections 19 and 20 of the RTI Act.

10. In light of the foregoing, the present petition is allowed with the following directions:

i. The observations made by the CIC in Paragraph No. 6 of the impugned order dated 10th October, 2022 are set aside.

ii. The directions issued by the CIC in Paragraph No. 6.1 of the impugned order, for carrying out departmental enquiry by referring the matter to CBI, are also set aside.

11. With the aforesaid directions, the petition is disposed of.

SANJEEV NARULA, J

NOVEMBER 13, 2024
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[6] 2017 SCC OnLine Del 12350.