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

+ **W.P.(C) 12773/2024 & CM APPL. 53203/2024**

IRSHAD KHAN

.....Petitioner

Through: *Appearance not given.*

versus

GOVT OF NCT OF DELHI & ORS.

.....Respondents

Through: Mohd. Irsad, ASC with Ms. Nasreen
and Mr. Kunal Raj, Advocates for R-
1.

Mr. Rahul Sharma, SPC with Mr.
Himanshu Gautam, Mr. Saurabh
Sharma, Mr. Ayush Bhatt and Mr.
Harsh Rao, Advocates for R-2.
SI. Arvind, GTB Enclave.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

11.09.2024

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1. This is the third time that Petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India, 1950, in relation to the same subject matter.

2. On 23rd August, 2021, Petitioner filed an application to the Public Information Officer¹ of Swami Dayanand Hospital, Dilshad Garden, Shahdara² seeking information under the Right to Information Act, 2005,³ relating to his treatment in the said Hospital, however, the said information

¹ "PIO"

² "the Hospital"

³ "RTI Act"



was not provided. Consequently, an appeal was filed to the First Appellate Authority and thereafter, a second appeal bearing No. CIC/EMCDN/A/2021/150799UM was preferred to the Central Information Commission.⁴ Through order dated 18th October, 2022, CIC directed the Central Public Information Officer of the Hospital to furnish information to the Petitioner herein, within a period of 30 days.

3. Thereafter, Petitioner filed a writ petition [W.P.(C) 1812/2024] which was disposed of on 08th February, 2024 in the following terms:

“1. Learned Counsel appearing for the Petitioner seeks permission to withdraw the present writ petition with liberty to approach the Central Information Commission (CIC) regarding compliance of the Order dated 18.10.2022 passed by the Central Information Commission (CIC).

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

3. It is open for the Respondents to comply with the Order dated 18.10.2022 before the Petitioner approaches the Central Information Commission (CIC).

4. The writ petition is disposed of as withdrawn, along with pending application(s), if any.”

4. Subsequently, on 07th March, 2024, Petitioner filed a complaint under Section 18 of the RTI Act requesting the CIC to take action as per Section 7(8) of the Act, but to no avail.

5. Accordingly, a writ petition [W.P.(C) 6674/2024] was filed by the Petitioner seeking compliance of order dated 18th October, 2022. The said petition was decided through order dated 09th May, 2024, directing the CIC to dispose of Petitioner’s application, in accordance with law.

“1. The Petitioner has approached this Court for a direction to the

⁴ “CIC”



CIC to take action to ensure compliance of an Order dated 18.10.2022 passed by the CIC in the instant matter.

2. *This Court vide Order dated 08.02.2024 had disposed of the writ petition by permitting the Petitioner to approach the CIC for effective implementation of the order.*

3. *Material on record discloses that pursuant to this order, the Petitioner has moved an application under Section 18 read with Section 20 of the RTI Act on 07.03.2024.*

4. *This writ petition is being disposed of with a request to the CIC to dispose of the application filed by the Petitioner under the RTI Act in accordance with law.*

5. *The writ petition is disposed of along with pending application(s), if any.”*

6. Subsequently, in compliance of this Court's orders, on 11th July, 2024, CIC issued a notice of hearing and on 24th July, 2024,⁵ the CIC issued a show cause notice to the PIO in the following terms as follows:

“7. The Commission after adverting to the facts and circumstances of the case, hearing the appellant and perusal of the records, noted that the respondent remained absent despite service of hearing notice. The appellant submitted that the respondent has neither provided any document sought under the RTI Act nor furnished a copy of enquiry report as directed by the Commission till the date of hearing. The documents on records show that the direction of the Commission is not complied with by the respondents in toto and due to their absence, response for non-compliance of the above order could not be ascertained.

It is pertinent to mention that more than two and half year has elapsed, the information sought has not been provided to the appellant. Besides, as per the records, no enquiry is conducted by the concerned FAA as directed by the Commission vide order dated 18.10.2024. Thus, actions of the PIO/FAA prima facie appear to be casual, insensitive and not as per the provisions of the RTI Act.

*In view of the above lapses, Dr. Puneeta Kunjur, present PIO, the then PIO (as on 18.10.2024) and the then FAA (as on 18.10.2022) as deemed PIO are **show caused** to explain as to why maximum penalty under Section 20(1) of the RTI*

⁵ Order with respect to disposal of non-compliance dated 01st August, 2024



Act should not be imposed upon each of them for non-compliance of the Commission's order and not furnishing the information to the appellant. The present PIO, Dr. Puneeta Kunjur, is given responsibility to serve a copy of this order as well as the show-cause notices to the then PIO (as on 18.10.2024) and the then FAA (18.10.2022) secure their written explanations as well as their attendance on the next date of hearing. All the written explanations (from the PIOs and the then FAA) must reach the Commission within three weeks from the date of receipt of this order.

Further, the PIO is directed to comply with the aforesaid order dated 18.10.2022 of the Commission, without further delay and documents are provided to the appellant free of cost within three weeks' time from the date of receipt of this order."

7. In light of the above, considering the fact that the CIC is presently seized with the question of non-compliance of order dated 18th October, 2022 and a show cause notice has already been issued to PIO, the present writ petition is premature.
8. Accordingly, the present writ petition is disposed of with a direction to CIC to expeditiously dispose of Petitioner's pending petitions, in accordance with law.
9. All rights and contentions of the parties are left open.
10. With the above directions, the present petition along with pending applications, if any, is disposed of.

SANJEEV NARULA, J

SEPTEMBER 11, 2024

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