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

+ **W.P.(C) 16091/2024**

JATIN SHARMA

.....Petitioner

Through: Petitioner in person

versus

OFFICE OF COMMISSIONER OF INDUSTRIES, GNCTD & ANR.

.....Respondents

Through: Ms. Mehak Nakra, ASC (Civil) for
GNCTD with Ms. Gunjan Suyal, Mr.
Aditya Goyal, Advocates for R-1 & 2

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

20.11.2024

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1. The present writ petition impugns order dated 4th October, 2024,¹ passed by the Central Information Commission² in relation to the application dated 2nd April, 2023 filed under the Right to Information Act, 2005³ whereby the Petitioner had sought the information pertaining to the date of registration of the of Army Group Insurance Fund under the Registration of Societies Act, 1860 along with their registration number.

2. In this regard, an appeal was preferred to the First Appellate Authority on 28th May, 2023, however, no information was provided. In the second appeal, the Commission specifically records that the information

¹ “the impugned order”

² “the Commission”/ “CIC”

³ “the RTI Act”



sought by the Petitioner is not available in the records of Public Information Officer, Registrar of Societies which has been informed to the Petitioner through letter dated 18th September, 2024. The impugned order also records that after receiving the notice of hearing from the Commission, the Public Information Officer, Registrar of Societies, made best possible efforts to trace the file but since the same is not available in their records, no relief could be granted to the Petitioner.

3. The CIC has disposed of the appeal with the following observations:

“Decision:

The Commission after adverting to the facts and circumstances of the case and perusal of the records, observes that the information sought by the Appellant in the instant RTI Application is not available in the records of the answering Respondent and the same has been informed to the Appellant vide letter dated 18.09.2024. It is noted that after receiving the hearing notice from the Commission, the answering Respondent has made best possible efforts to trace the file, but the said file of the society is not available in their office. Therefore, no relief can be given to the Appellant in the instant matter.

However, before parting with the case, the Respondent is cautioned to act strictly within the precincts of the RTI Act by observing the timelines scrupulously and punctually, in future.

Be that as it may, it is noted that the Appellant has not served a copy of the instant Second Appeal upon the answering Respondent and therefore, the delay caused in providing the reply is not attributable to the answering Respondent. The Commission would like to remind the Appellant of the fact that serving a copy of documents (including Complaint, Second Appeal and Written submissions) to the opposite party is crucial for fairness, transparency, and due process in legal proceedings and also in the interest of expeditious response from the concerned Public Authority. It further reinforces the bonafide interest of the Appellant/Complainant in obtaining the information at the earliest possible. The requirement of advance service is in accordance with the audi alteram partem requirement. It further ensures that the opposite party is aware of the facts of filing of a case in CIC, arguments of the Appellant and reason for discontentment. It has been the experience that where the Appellant/Complainant had served advance copy of the



Second Appeal/Complaint on the opposite party, the Respondent Public Authority has tried proactively to resolve the case by either providing clarity on the subject or by providing revised and updated reply/information to the Appellants before the matter reaches for the hearing. This ultimately results in faster delivery of information, thus, leading to a more efficient and effective Appeal disposal. It also reduces the time, energy and efforts of the Commission and Respondent Public Authority in early disposal. It is in his own interest for the Appellant/Complainant to serve copy of Second Appeal/Complaint on the Respondents.”

4. The Petitioner contends that the provisions of the RTI Act and the Central Information Commission (Appeal Procedure) Rules, 2005 have not been complied with and there are procedure flaws at the end of the Respondents. He states that the Land Acquisition Collector, Kapashera confirmed the availability of record through letter dated 1st February, 2024. The Petitioner further asserts that the Commissioner of Industries had clarified that only one Army Group Insurance Fund Society exists and transferred their records to Respondent No. 2 in 2015. According to the Petitioner, despite the record being available with the Respondents, they are wrongly depriving the same to the Petitioner.
5. The Court has noted the facts of the case and the contentions of the parties. In the opinion of the Court, once there is a categorical stand of the Respondent that the record is not available which has been informed to the Commission as well as to the Court, no relief can be granted to the Petitioner.
6. The consequences, if any, arising from non-availability of the record, is not being examined in the present petition. The Petitioner is free to take appropriate recourse to other legal options, if so available.



7. With the above directions, the present petition is disposed of.

SANJEEV NARULA, J

NOVEMBER 20, 2024/ab