



2024:DHC:4665



\$~20

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**Date of decision: 20th MAY, 2024IN THE MATTER OF:+ **W.P.(C) 2874/2015 & CM APPL. 5153/2015**

ASHOK KUMAR VERMA

..... Petitioner

Through: Mr. Vivek Kumar Tandon and Ms.
Perna Tandon, Advocates.

versus

ARVIND KUMAR SHARMA

..... Respondent

Through: Ms. Aditi Saraswat, Amicus Curiae.

CORAM:**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD****JUDGMENT (ORAL)**

1. The Petitioner has approached this Court challenging an Order dated 04.12.2014 passed by the Central Information Commission (CIC) in Appeal No. CIC/AD/A/2013/000990-SA whereby a sum of Rs.25,000/- was directed to be recovered from the Petitioner for not providing the requisite information as sought for by the Respondent within the time stipulated under the RTI Act.
2. Material on record indicates that the Respondent had given a complaint to the Registrar of Cooperative Societies seeking inquiries regarding non-compliance of the arbitration award in arbitration case filed by the Respondent against the Sadbhawana Cooperative Group Housing Society Limited. The complaint dated 19.05.2012 is being reproduced as under:-

"1. It is respectfully stated that vide arbitration award



2024:DHC:4665



of 29.02.2012 of Dr. Satbir Silas Bedi, IAS the learned Arbitrator, the Respondent Society was directed to restore to original status membership of Shri Arvind Sharma, the undersigned Claimant/Petitioner, and grant all legal benefits. Thereafter, your office has been updated about the inaction of the Society in this regard and the undersigned is grateful for the guidance of your office and directions issued by the concerned Zone.

2. The award was given upon reference to arbitration under an agreed order made in writ petition (WP-C 1921/2011), the Hon'ble Delhi High Court filed by the Society against the undersigned was an arbitration reference of the case of the undersigned arising due to the illegal cessations membership by the then Administrator, Shri Rajinder Singh, 2003.

3. Simultaneous proceedings were underway at/by the Special RCS consideration of cessation of 42 other members (36+5+1) for which the Hon'ble High Court had issued directions in another writ petition (WPC 8873/2011). This has culminated in restoration of membership of 5 members.

4. As per order of the Hon'ble High Court, the list of members, whose expulsion is not has to be forwarded for draw of lots to DDA. As per inspection of the file of Sadbhawna CGHS, SW Zone, the Society has not issued demand letters to the 5 members restored by the Special RCS.

5. The case of the undersigned claimant/petitioner stands on same footing as the other 5 members restored. Subsequent to arbitration award, your office has been updated vide letters of 05.03.2012 and 12.04.2012 and in meetings. The special RCS was also called upon on 12.04.2012 and update through an



2024:DHC:4665



Aide-Memoire. The Zonal AR issued directions to the Society to comply with the award on 24.04.2012. Contrarily, the society has gone against outcome of the agreed arbitration process DCT where no stay is operative. The concerned AR has again written to the society on 15.05.2012 to issue demand letters to the above 5 members and the undersigned. However, there is response.

6. The so called current President and her spouse (joint members) are property dealers in Dwarka operating under the name of Kalhan Relators Pvt. Ltd. the Company was founded and held equally owned by them. Shri Awan Kalhan operates under the name of Bobby Kalhan and his name on various websites in connection with property deals. Some information is attached alongwith.

7. The Society is in violation of orders of the Hon'ble High Court and your office. It may be that members were enrolled by the previous Administrator(s) without approval of the RCS, illegal cessations/expulsions and other transgressions of law. The previous Administration forwarded only 51 names for draw of lots, many of whom were never approved by RCS growth this list too needs to be checked. The list of members has to be revised after restoration memberships by the Special RCS and Learned Arbitrator as above. It is earnestly requested restoration of the membership of the undersigned to original status, relevant payments and formalities be completed for inclusion of name is draw of lots. "

(emphasis supplied)

3. Since there was no action was taken on the complaint, the Petitioner wrote a letter on 03.09.2012 asking for the noting, memos and the orders of the action taken in respect of Point No.6 and 7 of the letter dated



2024:DHC:4665



19.05.2012.

4. A reply to the RTI application dated 03.09.2012 was given by the CPIO wherein it was informed to the Respondent that the concerned file has been sent to the South-West Zone and the required information can be obtained only from them.
5. Dissatisfied by the answer given by the CPIO, the Petitioner filed an appeal before the First Appellate Authority and the First Appellate Authority disposed of the appeal *vide* Order dated 08.10.2012 directing the CPIO to give a proper reply within 10 days of the issue of the order. It is stated that instead of providing the information as sought for by the Respondent, a copy of the arbitration award has been supplied to him by the CPIO *vide* reply dated 26.10.2012.
6. Alleging complete non-compliance of the provisions of the RTI Act and that the requisite reply has not been given to the Respondent, the Respondent filed an application under Section 20 of the RTI Act claiming damages.
7. The CIC *vide* Order dated 09.06.2014 issued show cause notice to the Petitioner as to why the penalty should not be imposed on him under Section 20 of the RTI Act for non-compliance of the orders of the First Appellate Authority for not furnishing the relevant information as sought for by the Respondent. Since no satisfactory answer was given by the Petitioner, a penalty of Rs.25,000/- has been imposed on him. It is this order which is under challenge in the instant writ petition.
8. Since there was no appearance on behalf of the Respondent, this Court appointed Ms. Aditi Saraswat, learned Counsel, as *Amicus Curiae*, to assist this Court and represent the case on behalf of the Respondent.



9. Learned Counsel for the Petitioner states that the files were not available with the department and have been sent somewhere else therefore time was taken by the Petitioner to furnish the reply.

10. *Per contra*, Ms. Aditi Saraswat, learned *Amicus Curiae* points out that the Respondent was running from pillar to post regarding the non-compliance of the arbitration award and various allegations have been made against the office bearers of the Society. She states that instead of providing the information as sought for by the Respondent, the only answer given by the CPIO was that the file has been sent to some other department and in compliance of the order of the First Appellate Authority, a copy of the arbitration award has been provided to the Respondent which does not amount to providing the information as sought for.

11. It is stated by learned *Amicus Curiae* that an attempt has been made by the Registrar of the Cooperative Societies and the CPIO to cover up the inactions/wrongdoings of the office bearers of the Society.

12. Heard learned Counsel for the parties and perused the material on record.

13. RTI Act was brought in force to secure access to information under the control of public authorities in order to promote transparency and accountability in the working of every public authority.

14. Material on record discloses that the Respondent had a dispute with the Sadbhawana Cooperative Group Housing Society Limited. The Respondent had initiated proceedings against the Society and the matter had been referred to arbitration by the Registrar of Cooperative Societies and an award had been passed in favour of the Respondent yet no action was taken in the matter. The Respondent had highlighted corruption in the Society by



2024 : DHC : 4665



giving a complaint. Since no further action was taken, the Respondent was forced to approach the authorities under the RTI Act for disclosure of the notings, memos and orders so that further action can be taken in the matter.

15. Material on record discloses that the notings, memos and orders as sought for by the Respondent has not been given rather an information was given quite belatedly providing a copy of the arbitration award .

16. This is not the information sought for by the Respondent. When the Respondent approached the Appellate Authority, the First Appellate Authority directed the CPIO to supply the information and instead of supplying the information, the CPIO supplied a copy of the arbitration award. When information as sought was not available, the CPIO would have given a reply to that effect rather than giving wrong information.

17. In view of the above, this Court does not find any fault with the imposition of penalty of Rs.25,000/- on the Petitioner. It is stated that that said amount of penalty has already been deducted from the salary of the Petitioner and the Petitioner has attained superannuation.

18. In view of the fact that the Petitioner has attained superannuation and in view of the fact that this Court does not see any infirmity with the order passed by the CIC under Section 20 of the RTI Act, this Court is not inclined to proceed further in the matter.

19. This Court expresses its gratitude to Ms. Aditi Saraswat, learned *Amicus Curiae*, who has assisted this Court ably.

20. The petition is dismissed along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

MAY 20, 2024/hsk