

27.

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

+ W.P.(C) 5957/2007

**Date of decision: 14<sup>th</sup> May, 2009**

KUSUM DEVI ..... Petitioner  
Through Mr. Divya Jyoti Jaipuria, Advocate.

versus

CENTRAL INFORMATION COMMISSION & ORS. .... Respondents  
Through Ms. Usha Saxena, Advocate for CIC.

**CORAM:**  
**HON'BLE MR. JUSTICE SANJIV KHANNA, J.**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in the Digest ?

**ORDER**

%

1. The petitioner-Ms. Kusum Devi has challenged orders dated 24<sup>th</sup> August, 2006 and 5<sup>th</sup> September, 2006 passed by the Chief Information Commissioner.

2. The petitioner had made an application under Right to Information Act, 2005 (hereinafter referred to as the Act, for short) with Public Information Officer of DDA. Not satisfied, she filed the first statutory appeal and then approached the Central Information Commission. The appeal was disposed of on 17<sup>th</sup> August, 2006 by the Chief Information Commissioner. The Chief Information Commissioner recorded

unhappiness in the manner in which the Public Information Officers had dealt with several matters pertaining to admission of students in Delhi schools under EWS category and the following observations were made:-

“ File has been examined. Arguably, the CPIO, DDA could plead that that DDA is not the public authority to hold information regarding admission of children under EWS in different schools in Delhi under the directions of NCT Government, to which DDA is not accountable. However, the information pertaining to lease deeds and enquiries conducted, if any, should have been easily accessible and under no circumstances delayed.”

3. The petitioner is not aggrieved against the said direction and the observations made by the Chief Information Commissioner.

4. The grievance of the petitioner, as stated above, is against two subsequent orders dated 24<sup>th</sup> August, 2006 and 5<sup>th</sup> September, 2006 whereby the Chief Information Commissioner has awarded compensation of Rs.520/- towards conveyance charges against the DDA to be paid to the petitioner. The petitioner prays that the respondent-DDA should be asked to pay penalty/damages of Rs.1,720/-. It may be relevant here to reproduce below the information which was asked by the petitioner in his application under the Act:-

“1. If a complaint were made to the Department against any school regarding EWS, in how many days would the department complete enquiry and issue show cause notice to the school?”

2. How many days after the show cause notice would the lease deed be cancelled?

3. The name, designation, phone and mobile number of office of the officer authorized to cancel the Lease Deed;

4. The name, designation, office number and mobile number of the officer appointed to enquire into the complaint.

5. In this type of complaint, would the investigating officer record the statement of the complainant, and if not, reasons thereof.

6. The date for the designated officer to complete investigation.

7. If he failed to complete investigation by the specified date, which officer of DDA was authorized to take action against the erring officer, with name, designation and phone number?

8. A certified copy of investigation report.

9. After investigation, will the school be issued show cause notice, if issued a certified copy of the same.

10. By which date would the lease deed of this school be cancelled?"

5. Most of the questions asked by the petitioner are argumentative, presumptuous or asking for opinion and cannot be categorized as "information". The petitioner certainly has right to ask for "information" with regard to the complaint made by him, action taken and the decision taken thereafter, but not ask for opinion or presumptive questions. The petitioner being a layperson and a common citizen may not have clearly

understood the nature and extent of the "information", which can be applied for and asked for. She is entitled to benefit on this account. This aspect was understood by the Chief Information Commissioner and accordingly the directions as stated above in the order dated 17<sup>th</sup> August, 2006 were passed. However, this aspect has to be kept in mind, when the question of penalty is examined.

6. In the order dated 24<sup>th</sup> August, 2006, the Chief Information Commissioner noticed that the information sought had been furnished by the Public Information Officer and there was failure on the part of the respondent-DDA to attend two hearings, which had necessitated adjournments. It was noticed that the amount claimed by the petitioner towards expenses incurred for attending the two hearings of Rs.2,685/- were rather high and the petitioner was asked to substantiate the claim.

7. On 5<sup>th</sup> September, 2006, the Chief Information Commissioner after examining the relevant facts passed the following order:-

" We have examined the claim. We are not convinced that there has been any loss of salary by the authorized representatives of the appellants, nor has any evidence of any such deduction/loss been placed before us. On the other hand, the transport charges are genuine, and even though no receipts are provided in such cases, we may not insist on such evidence being produced. The conveyance charges from Seemapuri to the offices of the Commission amounting to Rs.520/- are payable by the DDA and may be paid to the authorized

representatives of the appellants against receipt,  
a copy of which may be placed on file.”

8. This Court is not sitting in appeal against the order passed by the Chief Information Commissioner. The Chief Information Commissioner in his order dated 5<sup>th</sup> September, 2006 after considering the relevant circumstances of the case, has computed and awarded compensation of Rs.520/- to the petitioner and DDA was asked to pay the same. Hardly, any case or justification for judicial review of the said order is made out. I am not, therefore, inclined to entertain the present writ petition and the same is dismissed.

**SANJIV KHANNA, J.**

**MAY 14, 2009**  
**VKR**