

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

**W.P.(C) 7474/2007**

**JAI KANT GUPTA ..... Petitioner  
Through Ms. Ratika Mehrotra, Mr. Diya Jyoti  
Jaipuria, Advocates**

versus

**THE CENTRAL INFORMATION  
COMMISSIONER AND ORS. .... Respondents  
Through Mr. K.K. Nigam, Advocate for the CIC.**

**CORAM:**

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT  
O R D E R  
10.10.2007**

**1. Issue notice. Mr. Nigam, learned counsel accepts notice on behalf of respondent Central Information Commission (hereafter ?CIC?). In view of the order proposed, I feel it is unnecessary to issue notice to the other respondents.**

**2. The petitioner sought for information about the transfer policy of the NPCC through an application under Right to Information Act, on 17.2.2006. He did not receive any response and, therefore, filed an appeal on 19.5.2006 to the authority designated by the NPCC. The third respondent, appellate authority, directed to the**

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**CPIO, the respondent No.2 to provide information within three days of its order dated 4.8.2006.**

**3. In the meanwhile, the petitioner apparently filed a second appeal to the Central Information Commission (CIC). The CIC had directed the respondents 2 and 3, authorities under the NPCC to file comments and appear in person before it on 1.11.2006. The CIC by its order dated 1.11.2006 noted that there was**

**serious delay by the CPIO as well as the appellate authority in providing information within statutory time limit as stipulated under Section 7(1) and other provisions of the Act. The CIC, therefore, issued notice to third respondent asking it to show cause why compensation should not be awarded to the petitioner under Section 19. Notice was also issued to the second respondent CPIO as to why penalty should not be imposed under Section 20 of the Act.**

**4. The petitioner did not thereafter hear anything about the matter and reminded the CIC on 8.12.2006 about the follow up action. Since no response was forthcoming, it is alleged that the petitioner, after enquiry, discovered that the matter was closed on 5.1.2007, through a noting/order proposed by the Additional Secretary and Registrar to the CIC. The relevant part of the said noting reads as follows:**

**?In my view, the Commission can issue a notice to the CPIO under Section 20 of**

the RTI Act and issue a warning to Shri

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Arbind Kumar for his failure to perform a statutory duty under the RTI Act.

These can be sent to the Secretary of the Ministry for taking note of.

Submitted for consideration.

With respect to the approval given on pre-page a draft letter to be issued to Shri Arbind Kumar, CMD(NPCC) is placed below for approval. IC-T could have imposed the penalty on CPIO who was issued a notice on 10th November, 2006 to furnish his explanation for not providing information in time. It is felt that we may direct CMD to serve a copy of this notice to Shri A. Mishra, CPIO and return the Commission a duly signed copy from Shri A. Mishra to confirm that the notice was actually served on him.

On pre-page IC-T had approved my proposal to issue a warning to CMD, NPCC. Instead of issuing a warning, I propose to convey displeasure of the Commission to CMD (NPCC) as this warning may not have any implication since the Commission is not a disciplinary authority of CMD. It is for the Ministry to decide his future continuation in the company. A displeasure conveyed by the Commission may have far reaching implication on his continuation in the company.

Submitted for approval.

DFA.

(P.K. Gera)

Additional Secretary and Registrar

5.1.2007?

5. I am of the considered view that the procedure adopted by the CIC is curious to say the least. Having issued the show cause notice, even if it were to decide to drop further proceedings and not direct compensation or penalty, it ought to have done so formally and not merely closed the file, as it appears to have done, on the

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basis of some notings. It is a quasi-judicial body, empowered to decide issues entrusted to it by law. Closure of such proceedings in a transparent manner, would, having regard to the objectives of the Right to Information Act, be fundamental to the functioning of the CIC. In these circumstances, the CIC is hereby directed to take up the proceedings from the stage which it dropped them i.e. the service of the show cause notice under Section 20(1) read with 19(8)(b) and after hearing the parties make a reasoned order in the circumstances of the case.

6. The petition is disposed off in the above terms.

Order Dasti.

S. RAVINDRA BHAT,J

OCTOBER 10, 2007

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