

Delhi High Court

Life Insurance Corporation Of vs The Central Information

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

DECIDED ON: 27.04.2009

+ W.P. (C) 8708/2008

LIFE INSURANCE CORPORATION OF

INDIA & ORS. Petitioners Through: Mr. Kamal Mehra, Advocate.

versus

THE CENTRAL INFORMATION

COMMISSION & ORS. Respondents Through: Mr. K.K. Nigam,
Advocate

for CIC.

Ms. Meenakashi, Advocate for Resp-2.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

1. Whether the Reporters of local papers

may be allowed to see the judgment?

2. To be referred to Reporter or not?

3. Whether the judgment should be

reported in the Digest?

S.RAVINDRA BHAT, J. (OPEN COURT)

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1. Issue rule. Ms. Meenakashi, counsel for second respondent, waives notice of rule. With consent the petition was heard finally.

2. In these proceedings, an order of the Central Information Commission (CIC) dated 24.10.2008, imposing penalty under Section 20 to the extent of Rs.25,000/- on the present petitioners coupled with direction to initiate WP (C)8708/2008 Page 1 of 6 departmental proceedings against them, has been impugned. The detailed facts are not being discussed in view of the order proposed.

3. The second respondent, apparently a tenant of the petitioner applied on several occasions under the Right to Information Act, 2005 (RTI) seeking diverse kind of information. In the course of one such application on 20.8.2007, he queried about a sanction pertaining to the lift installed in a building owned by the LIC of India at Chennai. The Public Information Officer had passed an order on 14.9.2007. The second respondent appealed to the appellate authority. During the pendency of proceedings before the appellate authority, he apparently received a communication dated 12.11.2007 stating that the records would be searched and the matter would possibly take some time. On 24.11.2007, feeling aggrieved by what he perceived to be a deliberate action on the part of the LIC, the second respondent complained to the CIC under Section 18 (3), alleging non-compliance with the terms of the order. The application was premised on the letter dated 12.11.2007 itself being a concession that information was available though not given to him.

4. The CIC issued notice and heard the parties. Eventually by its detailed order dated 24.10.2008, it concluded that the LIC and the two officers against whom notices were issued under Section 19 were guilty of not furnishing the information within time. It, therefore, directed

compensation - payment of Rs.25,000/- as penalty and further required LIC to initiate departmental proceedings against the appellate authority Mr. B. WP (C)8708/2008 Page 2 of 6 Manivannan.

5. This Court has carefully considered the submissions. The relevant part of the impugned order is as follows: -

"28. An analysis of the RTI-application will establish that the applicant was not asking as to whether the lift was functioning or not functioning, or whether it was fit for running. The complainant had asked for copies of documents clearly specified by him. There was no ambiguity in the queries. The response given by the CPIO was entirely unrelated to what had been asked for by the applicant and hence wholly irrelevant. The applicant had asked for the copies of the documents and other particulars about running of the lift, while the CPIO's reply was informing that the lift had completely stopped functioning and that it is not fit for running. Reply was wholly incongruent with the queries.

29. The circumstances under which the information was withheld from the appellant leads to a strong inference that the CPIO has denied the information on a ground which has no relevance either to the facts-in- issue or the law. The RTI-application has been handled casually and in a most perfunctory way. The manner in which the RTI-application has been disposed of by the CPIO is evidence enough that this he has done knowingly. In view of the facts and circumstances of this case, the Commission is of the opinion that the CPIO has knowingly and without any reasonable cause, given misleading information to the applicant and has, therefore, rendered himself liable for imposition of penalty under Section 20(1) of the Act. In the instant case, the RTI- application was submitted on 20.08.2007 and the information requested is yet to be provided. The Commission, therefore, orders imposition of maximum penalty of Rs.25,000/- (Rupees Twenty Five Thousand) only, which shall be recoverable in three monthly installments, i.e. Rs.8,000.00 each for the first two

months and, Rs.9,000/- for the last / third month, to be recovered from the salary of st

the CPIO, beginning with 1 December, 2008. The methods of recovery of the penalty amount and crediting it, is contained in the guideline enclosed to this order as Annexe. The head of the public authority, viz. the Chairman, LIC shall report compliance to the Commission within 1 week of having effected the recovery of each installment."

6. It is not disputed by the petitioners that information as sought was not furnished at all till the proceedings were initiated by the CIC. In fact, the WP (C)8708/2008 Page 3 of 6 final order of the CIC also records this. In these circumstances, the argument made about the fact that the lift had stopped operating since 2007, cannot be termed as satisfying the requirements of the Application.

7. To pointed queries, specific answers with relevant particulars have to be given; in case such information is not available, even that too has to be disclosed. Neither course of action was adopted in this case. The LIC's arguments that the CIC could not have converted a complaint proceedings into an appellate proceedings and gone ahead by issuing notices under Section 19, does not appeal to this Court. Although the right to approach through separate channels appears to be distinct nevertheless if the forum before whom the power is vested happens to possess it - in this case the CIC undoubtedly possessed it, ipso facto would not render an order imposing penalty a nullity or irregularity. The reason for this is that in case one of the authorities conveys to the information seeker an impression that the facts or the information sought would be furnished and does not chose to do so, this expose it to action under Section 18 (3). If in fact the information is not so available, it is open to the information seeker to also file a second appeal under Section 19. In both instances, he can approach the CIC. In the present case the second respondent did so by chosing the route of a complaint under Section 18 (3) on 24.11.2007. Till notice was issued on that complaint for 7.5.2008, the petitioner LIC in fact did not decide the first appeal pending before it. In the circumstances, the

CIC chose to combine its powers under Section 18 & 19 and thereafter proceeded to pass orders as it WP (C)8708/2008 Page 4 of 6 did. The situation would have been different if the appellate authority had taken cognizance of the matter and the some proceedings had been initiated before it or orders were awaited by it. In such circumstances, it can be arguably said that exercise of powers by CIC would be unjustified. Here no record of proceedings by the first appellate authority or any order by it within the time CIC took cognizance of the matter, were shown to the Court. In these circumstances, the Court is satisfied that CIC's order is not vulnerable to challenge on the ground of illegality.

8. As far as the direction contained in the CIC order from para 31 to 48 are concerned, this Court is of the opinion that having decided the complaint and closed the matter by imposing a penalty of Rs.25,000/- on the concerned party, CIC was anguished by the manner in which the information request was handled and recommended the action impugned. While in the facts of this particular case, the circumstances may highlight, adversely the conduct or omission of one or other officer, quasi judicial tribunals such as the CIC while exercising their powers are circumscribed by the express provisions of the Act. In the facts of this case, none of the provisions of the RTI should not have been invoked by the CIC to make directions of the kind as made, or recommend in the detailed manner as is found in the impugned part of the order. Therefore, the discussion in para 31-48 of the impugned order and the consequent directions cannot be sustained.

9. For the above reasons, the writ petition has to succeed in part. The CIC's requirement that the LIC should consider the matter and initiate appropriate WP (C)8708/2008 Page 5 of 6 proceedings and report to it within a time bound manner is accordingly set aside. The rest of the order shall remain undisturbed. The time given for compliance in the order insofar as payment is concerned is hereby enlarged to six weeks from today. The writ petition is partly allowed in the above terms.

S. RAVINDRA BHAT

JUDGE

APRIL 27, 2009

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