

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 5688/2010 and CM No. 11183/2010

PRAVEEN KUMAR JHA Petitioner
Through: Mr. Divya Jyoti Jaipuria, Advocate.

versus

BHEL EDUCATIONAL MANAGEMENT BOARD and ORS Respondents
Through: Mr. J.C. Seth, Advocate

CORAM: JUSTICE S. MURALIDHAR

O R D E R
12.01.2011

1. The Petitioner, seeking information under Right to Information Act, 2005 ('RTI Act') from Respondent No. 1, BHEL Educational Management Board, is aggrieved by the impugned order dated 28th July 2010 passed by the Central Information Commission ('CIC'). While dismissing his appeal, the CIC has advised Respondent No. 1 to initiate disciplinary action against the Petitioner for misusing the provisions of the RTI Act and also consider recovery of the expenditure incurred on the travel of the Public Information Officer ('PIO') of Respondent No.1 for attending the hearing before the CIC.
2. The CIC in the impugned order concluded that the Petitioner had been filing frivolous RTI applications which resulted in increase in the costs of providing information by the Respondents. The conclusions of the CIC and the directions issued in the impugned order in paras 7, 8 and 9 read as under: '7. The appellant's action of putting frivolous RTI applications and appears have unduly increased the costs of providing information by the respondent, including the travel expenses incurred in attending hearings at the Commission. Besides, the appellant is also responsible for wasting the resources of this Commission which had allowed inspection of records in presence of its own representative. While the CPIO and his colleagues have responded and appeared for hearing on 28/7/2010, the appellant has refrained from attending the hearing. The appellant has thus failed to point out as to which information has been refused to him. The respondents have unnecessarily incurred costs in attending the hearing, mainly because of frivolous and vexatious appeals filed by the appellant.

"8. In view of the fact that the appellant has been misusing the provisions of the Act and adding unnecessary costs to the public authorities, there is no reason why disciplinary action under the relevant Service (Conduct) Rules should not be taken against the appellant who is an employee of the respondent BHEL. The respondent's ED is therefore advised to take appropriate disciplinary action against the appellant for misuse of the provisions of the Act for promotion of personal interest, for casting aspersions on the senior officials and for causing unnecessary expenditure on the public authority in attending to his RTI applications.

9. The respondent's ED may also consider recovery of total expenditure incurred on travel of the CPIO and the deemed PIO for attending the hearing on 28/7/2010, from the monthly salary of the appellant. This hearing could have been avoided had the appellant acted responsibly in the matter of pursuing his 2nd appeals."

3. Mr. Divya Jyoti Jaipurkar, learned counsel appearing for the Petitioner, first submits that there is no provision under the RTI Act which empowers the CIC to issue a direction to initiate disciplinary action against a complainant upon finding the complaint to be without merit. He further submits that there is no provision under the RTI Act for imposing costs on a complainant much less directing the employer of the complainant to recover such costs from the salary of the complainant.
4. Appearing for the Respondents Mr. J.C. Seth, learned counsel submits that although there is no specific provision permitting the CIC to levy costs on a complainant, the CIC being vested with the powers of a civil court under Section 18(3) of the RTI Act has the inherent power to levy costs on the complainant in the interests of justice. He also supports the directions of the CIC, which he terms only an 'advice' to initiate disciplinary action against the complainant, who happens to be an employee of Respondent No. 1. Mr. Seth relies upon certain observations of the Supreme Court in the decisions in *Canara Bank v. Nuclear Power Corporation of India Ltd* 1995 Supp(3) SCC 81, *Kavita Trehan v. Balsara Hygiene Products Ltd.* AIR 1995 SC 441 and *Salem Advocate Bar Association, Tamil Nadu v. Union of India* (2005) 6 SCC 344.

5. The above submissions have been considered. The question that arises is whether the directions issued by the CIC, in paras 8 and 9 of the impugned order, are sustainable in law.
6. Section 18(3) of the RTI Act, which has been relied upon by learned counsel for the Respondents, reads as under:

"18 Powers and functions of Information Commission."

(3) The Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908(5 of 1908), in respect of the following matters, namely:--

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavit;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.'

7. The above provision indicates that for the purposes of inquiring into a matter the CIC will have the same powers as vested in a civil court. This does not mean that the CIC has been vested with all the inherent powers of a civil court including, for instance, the powers under Section 151 CPC. In the absence of any specific provision in the RTI Act permitting the CIC to levy costs on a complainant, it is not possible to countenance the impugned order dated 28th July 2010 of the CIC directing deduction from the salary of the Petitioner the expenses incurred by the PIO of Respondent No. 1 in travel for attending the hearings before the CIC. There is absolutely no legal basis for such a direction.
8. Further, while Section 20 of the RTI Act empowers the CIC to levy costs on PIOs who are found to have obstructed the furnishing of information to an applicant, there is no corresponding provision for levy of penalties or costs on a complainant if the complaint is found to be vexatious. Likewise, Section 20(2) RTI Act permits the CIC to recommend disciplinary action against an errant CPIO. There is no provision concerning the complainant. It is not possible to

accept the submission of learned counsel for the Respondent that the CIC has inherent powers to issue directions, in the interests of justice, to even give an 'advice' on deduction of costs from the complainant's salary or to 'recommend' disciplinary action against a complainant. None of the decisions cited by the learned counsel for the Respondents support his contentions. Consequently, paras 8 and 9 to the impugned order dated 28th July 2010 of the CIC are hereby set aside.

9. The writ petition is disposed of in the above terms, but in the circumstances, with no order as to costs. The pending application is also disposed of.

S. MURALIDHAR, J

JANUARY 12, 2011

ak

WP (Civil) 5688/2010