

(2022) 07 DEL CK 0068

In the Delhi High Court

Case No : Letter Patent Appeal No. 409 Of 2022

Amresh Chandra Mathur

APPELLANT

Vs

Central Information Commissioner And Ors.

RESPONDENT

Date of Decision : 15-07-2022

Acts Referred:

Constitution Of India, 1950 — Article 226
Right To Information Act, 2005 — Section 18

Citation : (2022) 07 DEL CK 0068

Hon'ble Judges : Satish Chandra Sharma, CJ;Subramonium Prasad, J

Bench : Division Bench

Advocate : Manoj, Aparna Sinha

Final Decision : Dismissed

Judgement

Subramonium Prasad, J

1. This Letters Patent Appeal has been filed under Clause X of the LPA against the Order dated 24.05.2022 of this Court passed in W.P.(C) No. 8178 of 2022 wherein the writ petition filed by the Appellant herein was dismissed.

2. The facts, in brief, leading to the instant petition are as under:

a) It is stated that the Appellant herein had submitted a request for information on 26.07.2019 available with port officials at Central Drugs Standard Control Organisation at Chennai on the basis of which import and marketing of the drug Vigamox was being allowed by M/s Alcon Laboratories (India) Pvt. Ltd. It is stated that when the information was not provided, the Appellant filed a Complaint dated 09.09.2019 under Section 18 of the Right to Information Act, 2005 (hereinafter referred to as the "RTI Act", before the Chief Information Commissioner (hereinafter referred to as the "CIC").

b) The Complaint dated 09.09.2019 was heard by the CIC on 11.10.2021, and vide its Order dated 18.10.2021 bearing reference no. CIC/ADCCH/

C/2019/650369, the CIC dismissed the Complaint of the Appellant. It is stated by the Appellant that the decision was rendered on the basis of the submissions made by Novartis Healthcare Private Limited (hereinafter referred to as the "NHPL") who had intervened as a third party. Aggrieved by the decision of the CIC dated 18.10.2021, the Appellant approached this Court by way of a writ petition, bearing W.P.(C) No. 8178 of 2022.

c) This Court, vide Order dated 24.05.2022 rendered in W.P.(C) 8178 of 2022, dismissed the writ petition of the Appellant herein and stated that the no interference of this Court under Article 226 of the Constitution of India, 1950, was warranted. The Appellant has now approached this Court by way of an appeal, impugning the Order dated 24.05.2022.

3. Mr. Amresh Chandra Mathur, who appears in person before this Court, submits that the learned Single Judge failed to peruse the record while rendering the impugned Order dated 24.05.2022. He states that the learned Single Judge did not consider the fact that the impugned decision of the CIC, wherein the Complaint of the Appellant under Section 18 of the RTI Act was dismissed, was based on the submissions of NHPL which was a third party to the proceedings before the CIC. Mr. Mathur further submits before this Court that he is mainly aggrieved by the fact that the information that was sought by him with regard to the scheduled drug Vigamox being marketed by NHPL has not been provided, despite the same pertaining to public interest at large.

4. Heard Mr. Amresh Chandra Mathur, who is appearing in person before this Court, and perused the material on record.

5. It appears to this Court that the primary grievance that subsists with the Appellant is the lack of information being furnished to him with regard to the drug Vigamox. It is stated that CIC failed to adjudicate upon the complaint of the Appellant solely on the ground of the submissions that had been made by NHPL that the Appellant was a habitual litigant and had approached multiple fora seeking the information related to the scheduled drug. However, it has been contended by the Appellant that the basis for approaching different fora was for the procurement of fora-specific information, and that the learned Single Judge has preliminarily dismissed his petition without going into the merits of the case.

6. The matter before the learned Single Judge was restricted to the aspect of whether the proceedings before the CIC were to be concluded or whether the CIC had prematurely dismissed the Complaint filed by the Appellant. The impugned Order dated 24.05.2022 observes that the CIC had noted that by an Order dated 31.08.2021, the issues that had been raised by the Appellant herein had been considered and the information sought by him had been duly provided. The learned Single Judge further observed that the Appellant's contentions as to the variance in the approval of the scheduled drug by the United States Food and Drug Administration for distribution in 3 ml packs only and the approval by the authorities in India, had no bearing on whether the proceedings before the CIC

were to be continued. The impugned Order categorically notes that the requisite information as sought by the Appellant had been provided and that the Appellant's grievances pertaining to import and marketing of Vigamox falling foul of the statutory provisions could not have formed the subject matter of consideration by the CIC under the 2005 Act.

7. This Court is of the view that the observations of the learned Single Judge are legally firm and that the questions raised by the Appellant traverse outside the purview of the 2005 Act, and therefore, could not have been considered by the CIC. The sole issue before the CIC was whether the information as sought by the Appellant could have been provided, and if yes, then had it been provided to the Appellant. The same has been duly considered and categorically adjudicated upon by the CIC. The impugned Order dated 24.05.2022 does not suffer from any perversity that would require the interference of this Court sitting in appeal.

8. Accordingly, the appeal is dismissed, along with the pending application(s), if any.