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**(2009) 07 DEL CK 0263**  
**In the Delhi High Court**  
**Case No : Writ Petition (C) 5563 of 2007**

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| D.D.A.          | Vs | APPELLANT  |
| Subhash Chander |    | RESPONDENT |

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**Date of Decision :** 06-07-2009

**Acts Referred:**

Right to Information Act, 2005 — Section 19(8), 20

**Citation :** (2009) 07 DEL CK 0263

**Hon'ble Judges :** Sanjiv Khanna, J

**Bench :** Single Bench

**Advocate :** Sangeeta Chandra, for the Appellant; Siddharth Yadav, for the Respondent

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## Judgement

Sanjiv Khanna, J.—Delhi Development Authority, the petitioner herein has impugned compensation of Rs. 50,000/- awarded to Mr. Subhash Chander, the respondent No. 2 by the Central Information Commission vide order dated 16th July, 2007.

2. Respondent No. 2 had filed an application dated 10th July, 2006 under the Right to Information Act, 2005 for inspection of file notings in connection with allotment of plot of land in lieu of his property acquired during the emergency, daily progress made on his application and for copy of records pertaining to his application.

3. It is the case of the petitioner that the Public Information Officer had replied to this application on 2nd August, 2006 and a detailed information/reply was furnished on 23rd October, 2006.

4. The respondent No. 2, however, was not satisfied and he approached the first appellate authority and then the Central Information Commission by way of second appeal.

5. During the course of hearing before me, learned Counsel for the petitioner submits that the entire information was furnished vide letter dated 23rd October,

2006 and by mistake the first appellate authority had made order dated 2nd/3rd November, 2006. It is further alleged that the Central Information Commissioner on the basis of this wrong order has been pleased to award compensation of Rs. 50,000/- to the respondent No. 2.

6. The relevant portion of the order dated 16th July, 2007 awarding compensation of Rs. 50,000/- reads as under:

10. The Commission would like to add a word of appreciation for the Deputy Director (Land), Shri S.P. Bhardwaj, who went to the greatest length to locate the file. However, it deeply sympathises with the Appellant who for years went through a period of great anxiety and uncertainty because of the callousness of the Department. Although, perhaps, no amount of financial compensation could be considered enough for putting a citizen through such mental torture, the Commission directs the respondents to pay Rs. 50,000/- (Rupees fifty thousand only) as a token compensation to him. This must be done by 31 July 2007. The Commission actually feels that this amount should be recovered from the persons who have handled the file so casually. However, it leaves it to the public authority to decide where this amount should come from.

7. The impugned order does not state and refer to the provision under which compensation of Rs. 50,000/- has been awarded. Before awarding any penalty u/s 20 of the Right to Information Act, 2005, reasonable opportunity has to be given to the Public Information Officer. Further, the maximum penalty, which can be imposed is Rs. 25,000/-.

8. The respondent No. 2 in his reply, on the other hand, has alleged that compensation of Rs. 50,000/- has been awarded u/s 19(8)(b) of the Right to Information Act, 2005. The impugned order does not state so. Further, u/s 19(8)(b), compensation can be awarded for the loss or detriment suffered for failure to comply with the provisions of the Right to Information Act, 2005 and the same should be relatable to the loss or damage suffered by the applicant on the said account. The loss and detriment suffered must be on account of application made under the Right to Information Act and failure of the respondents to supply information. The impugned order does not state that the said parameters had been kept in mind and on what basis compensation has been awarded.

9. Accordingly, the impugned direction imposing compensation of Rs. 50,000/- is set aside. In these circumstances, the matter is remanded back to the Central Information Commission. Parties or their representatives will appear before the Central Information Commission on 10th August, 2009.

10. It is clarified that this Court has not expressed any opinion on the merits and whether any penalty u/s 20 or compensation u/s 19(8)(b) should be awarded or can be imposed and the quantum thereof. The Central Information Commission will decide the question of penalty/compensation without being influenced by the earlier order.

The writ petition is disposed of.