

(2022) 12 DEL CK 0075

In the Delhi High Court

Case No : Civil Writ Petition No. 1313 Of 2019, Civil Miscellaneous Application
No. 5971 Of 2019

Jyoti Trivedi & Anr

APPELLANT

Vs

Central Information Commission & Ors.

RESPONDENT

Date of Decision : 08-12-2022

Acts Referred:

Right to Information Act, 2005 — Section 19(3)

Citation : (2022) 12 DEL CK 0075

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : Tatini Basu

Final Decision : Disposed Of

Judgement

Prathiba M. Singh, J

1. This hearing has been done through hybrid mode.
2. The petition challenges the impugned order dated 8th November, 2018 by which the Central information Commission (CIC) had directed disclosure of the information to the Right to Information (RTI) applicant and had also imposed a penalty of Rs.15,000/- on the Petitioner who was officiating as a Central Public Information Officer (CPIO).
3. The impugned order was a second appeal under Section 19(3) of the Right to Information Act, 2005 before the CIC challenging the disposal of the appeal by the First Appellate Authority (FAA). In the first appeal, vide order dated 11th January, 2017, the FAA had disposed of the appeal with the following decision:
"Decision
4. I have gone through the relevant records and find that at the time of giving a reply to the Appellant, the complaint portal was not functioning, and this position was intimated to the Appellant and an interim reply was given to him by the

CPIO concerned, vide his letter No. CVC/RTI/16/954-329969 dated 21.11.2016. I direct the CPIO concerned, that is, Shri Sanjay Agarwal, Director, to confirm the position and provide an appropriate parawise reply to the Appellant regarding the issues raised by the Appellant in his RTI Application, within 15 days of the receipt of these orders.

5. The Issues raised by the Appellant in his Appeal dated 03.12.2016 (received in the Commission on 16.12.2016), have thus been addressed, appropriately.”

4. The challenge in the second appeal is on the ground that the reason for non-furnishing of the information to the RTI applicant was malfunction of the complaint portal of the commission. In support of this averment, a letter dated 24th January, 2017, annexed as Annexure-P5 with the Affidavit of the Petitioner is relied upon.

5. Ms. Basu, Id. Counsel for the Petitioner also submits that the information which was sought by the RTI applicant Mr. K R Sasidharan Nair has since been supplied to him. Considering the fact that the Petitioner was merely officiating as a CPIO, as the actual CPIO was not available, she ought not to be visited with a heavy penalty of Rs.15,000/-.

6. On a query from the Court as to whether there is any confirmation from any technical body relating to the malfunctioning, it is admitted that no such document of the National Informatics Centre (NIC) has been placed on record. However, believing the Petitioner’s stand as stated in the letter dated 24th January, 2017, since the claim of the Petitioner is that there was a technical problem in the functioning of the complaint portal, the penalty is reduced to Rs.5,000/-.

7. No further orders are called for in this petition. The remaining directions of the CIC are not interfered with.

8. With these observations, the present petition, along with all pending applications, is disposed of.