
(2021) 01 DEL CK 0170

In the Delhi High Court

Case No : Civil Writ Petition No. 10873 Of 2020

Saurav Das

APPELLANT

Vs

Central Public Information Officer (CPIO), National E-Governance Division (NEGD) & Ors.

RESPONDENT

Date of Decision : 19-01-2021

Acts Referred:

Right To Information Act, 2005 — Section 20

Citation : (2021) 01 DEL CK 0170

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : Vrinda Bhandari, N. Sai Vinod, Sanjana Srikumar, Devdutta Mukhopadhyay, Rahul Sharma, C.K. Bhatt

Judgement

Prathiba M. Singh, J

1. This hearing has been done through video conferencing.
2. The subject matter of this writ petition is the 'Aarogya Setu' Application, which has been launched by the Government post the outbreak of the COVID-19 pandemic. The Petitioner is an RTI activist who had filed RTI applications with various Government authorities including the National Informatics Centre (hereinafter, 'NIC'), the Ministry of Electronics and Information Technology (hereinafter, 'MEITY'), and the National E-Governance Division (hereinafter, 'NeGD'), seeking various documents and information about the 'Aarogya Setu' Application.
3. The Petitioner's grievance is that despite approaching various authorities, each and every authority continued to evade responding to the application and failed to provide the information sought for. The Petitioner then approached the Central Information Commission (hereinafter,

â??CICâ?). After, he approached the CIC, NeGD replied to him stating that it does not possess any information qua the queries/information sought

by the Petitioner, as the said information does not relate to the NeGD.

4. An interim hearing was then held by the CIC, and vide order dated 26th October, 2020, the CIC passed a detailed order and observed that none of

the officials have provided the requisite information and that none of the CPIOs were able to explain anything qua the query as to how the website-

<http://aarogyasetu.gov.in/>, with the domain name â??gov.inâ?, or the Application, was created. The CIC in fact observed that the stand of the CPIOs

is â??extremely preposterousâ?. Having observed the same, show-cause notices were issued by the CIC to four officers from various Departments

of the Government. The said order reads as under:

â??In view of the above observations, the Commission is constrained to issue a show cause notice to the concerned CPIOs

1. Shri S.K Tyagi, Deputy Director and CPIO,
2. Shri D K Sagar, Deputy Director Electronics
3. Shri R A Dhawan, Senior General Manager (HR & Admn) and CPIO NeGD
4. Shri Swarup Dutta, Scientist F and CPIO NIC to explain why penalty u/s 20 of the RTI Act should not be imposed on them for prima facie

obstruction of information and providing an evasive reply. The CPIO, NIC shall also submit written submissions detailing their role in

creation of the website <https://aarogyasetu.gov.in/> with the domain name gov.in. The CPIO, NeGD shall also explain the delay of about 2

months in replying to the RTI application.â??

The said show-cause notices were, however, discharged vide the impugned order dated 26th November, 2020 wherein the CIC has observed:

â??The show cause notice proceedings are dropped and the complaint too is disposed of accordingly.â??

5. Ms. Vrinda Bhandari, Id. counsel appearing for the Petitioner, submits that the Petitioner was not awarded a hearing, despite the fact that the

Petitioner had specifically sought for the same in her complaint dated 10th September 2020 filed before the CIC, and the proceedings before the CIC

ought to have been converted into an appeal wherein a hearing is compulsorily required to be given. She further submits that CIC, in the impugned

order, has observed that the information qua the 'Aarogya Setu' Application is already in the public domain and that the notices against various officers, which were issued in the interim decision, also stand discharged. She submits that despite having spent a considerable amount of time with various authorities, the Petitioner has not received the requisite information, which are of enormous public relevance, from any of the authorities concerned.

6. Mr. Rahul Sharma, Id. counsel appearing for the Respondent No.1 to 5, submits that substantial amount of information qua the queries of the Petitioner exist in the public domain, and further, information running into more than 80 pages has already been given as was enclosed with the letter dated 3rd December 2020 sent by the Respondent No. 2 to the Petitioner. He also submits that in the hearing before the CIC on 24th November 2020, large amount of data and facts were placed by the Respondents, because of which the said notice against the four officers has been discharged by the CIC vide the impugned order.

7. Heard Id. Counsels for the parties. There are various issues that have been raised in the present petition in respect of the 'Aarogya Setu' Application which are of considerable public importance. The Petitioner, being an RTI activist, has been seeking various documents and information qua the said Application, from various authorities including NIC, MEITY, NEGD and other Government Departments. However, none of the authorities provided the complete information sought. The Petitioner has also filed fresh RTI applications before all the Public Information Officers of the concerned Departments. The CIC has passed the impugned order dated 26th November 2020, without affording a hearing to the Petitioner, which according to the Respondents is not required to be given. The issues raised in the petition deserve examination.

8. Issue notice to the Respondents. Mr. Rahul Sharma, Id. counsel accepts notice on behalf of Respondent No.1 to 5. Before going into the issues raised in this matter, the Court directs both the counsels for the Petitioner and the Respondents to place on record a chart, stating the information sought and already provided as well as the outstanding information which is yet to be provided to the Petitioner.

9. Along with the said chart, if the counsels for the Respondents wish to file any

further affidavit in respect of the averments made in the writ petition,
the same be filed within three weeks.

10. List for further hearing on 24th February, 2021.