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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5252/2020 & CM APPLs. 18929/2020, 18930/2020

UNION OF INDIA THROUGH MOSPI

..... Petitioner

Through: Mr. Rahul Sharma, SPC with Mr. C.
K. Bhatt, Mr. Ayush Bhatt,
Advocates.

versus

RAM GOPAL DIXIT

..... Respondent

Through: Mr. Lalit Bhardwaj and Mr. Jatin
Anand Dwivedi, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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15.05.2024

1. The instant writ petition has been filed by the Petitioner Union of India through Ministry of Statistics and Programme Implementation challenging the Orders dated 16.10.2018 and 16.09.2018 passed by the Ld. Central Information Commission (CIC) in Appeal bearing No. CIC/MOSPI/A/2017/195498.

2. The Respondent filed an RTI application on 26.09.2016 before the CPIO, Lok Sabha seeking the following information:

*“To,
CPIO Lok Sabha
Sansad Bhawan, New Delhi*

*Subject:- Application under RTI Act, 2005 seeking
certified copy of the following information related to:-*

i) Work initiated, pending and completed by Sh. Rajesh Diwakar, Hon'ble Member of Parliament, Hathras Constituency.

ii) Report of the development and public welfare work initiated by Sh. Rajesh Diwakar, Hon'ble Member of Parliament, Hathras Constituency.

iii) Name of the agencies involved in the construction/initiation/ completion of various projects of Public Welfare in Hathras Constituency.

iv) Details of funds spent on such work etc. in Hathras Constituency, Uttar Pradesh by Sh. Rajesh Diwakar, Hon'ble Member of Parliament, Hathras Constituency.

v) Details of MPLADS fund utilization and status of works recommended and executed in North Eastern Railway such as Road/Railway Station, etc.”

3. A reply was given to the Petitioner on 21.10.2016. Dissatisfied by the said reply, the Respondent filed an appeal and, thereafter, also filed the Second Appeal before the Ld. CIC.

4. It is the case of the Petitioner that Ld. CIC has exceeded its jurisdiction by commenting upon the action taken by the Members of Parliament in spending Members of Parliament Local Area Development Scheme (MPLADS) funds which was beyond the jurisdiction of the Ld. CIC. It is stated by the learned Counsel for the Petitioner that the Ld. CIC ought to have confined itself only to the question raised in the RTI application or any other aspect concerning the RTI application.

5. Section 18 of the RTI Act, 2005 gives the powers and functions of the Information Commissions which reads as under:

“18. Powers and functions of Information Commissions.—(1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,—

(a) who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;

(b) who has been refused access to any information requested under this Act;

(c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;

(d) who has been required to pay an amount of fee which he or she considers unreasonable;

(e) who believes that he or she has been given incomplete, misleading or false information under this Act; and

(f) in respect of any other matter relating to

requesting or obtaining access to records under this Act.

(2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(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.

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or

the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.”

6. A perusal of Section 18 of the RTI Act reveals that the Ld. CIC can only deal with issues relating to the information sought for under the RTI Act or any other issue which leads to dissipation of information as sought for by the Applicant. The Ld. CIC has no jurisdiction to comment adversely upon the functioning of any public authority. A perusal of the Impugned Order dated 16.10.2018 discloses that the Ld. CIC has commented upon utilization of funds receivable under the Members of Parliament Local Area Development Scheme (MPLADS) funds by various MPs. Paragraph Nos.62 and 63 of the Impugned Order dated 16.10.2018 reads as under:

“62. According to the Annual Review of MPLADS Program published by Ministry of Statistics & Programme Implementation on 30.08.2018, Maximum Percentage Utilization of funds by Lakshadweep, A& N Islands, Kerala, Maharashtra and Tamil Nadu. Hon'ble Union Minister DV Sadananda Gowda through this circular calls upon states to take steps to ensure effective utilization of funds, reduce the pendency and settle the accounts.

63. The Commission noticed that some MPs are not spending their MPLADS amounts in the earlier years of their term, but deliberately accumulating the funds for last year, preferably before general elections to gain advantage improperly. The representatives could not say anything on this issue. The MPLADS is criticized for creating this kind of undue advantage to MPs vis-a-vis the contestants in the next election. If

this is perpetuated there is a possibility of questioning it as unconstitutional. The Commission recommends the Ministry of Statistics and Program Implementation to prevent this kind of 'abuse' of MPLADS funds, and implement their guidelines to distribute the money equally in each year in five year term. This problem also can be tackled by introducing transparency measures by giving full details of the assets created, beneficiary classes or communities or areas or number of people those might get benefitted etc from time to time, so that voters know how their MP spent or not spent money every year and what works were completed or not completed. The Commission recommends taking measures to achieve these results. The Commission reiterates that it requires under Section 19(8)(a)(iii) of RTI Act, the public authority (Ministry of Statistics and Program Implementation) to make above referred changes to publish MP-wise, Constituency wise and work-wise details, and reasons for delay, if any, after duly procuring from the concerned district administration and ensure its voluntary disclosure under Section 4. Disposed of.”

7. The Ld. CIC has no jurisdiction to comment upon the utilization of funds by the Members of Parliament under the Members of Parliament Local Area Development Scheme (MPLADS). The scope of the RTI Act is only to ensure that information sought for under the RTI Act is dissipated in order to secure access to information under the control of public authorities. Therefore, the observations made by the Ld. CIC commenting upon as to how the Members of Parliament are utilizing the Members of Parliament Local Area Development Scheme (MPLADS) funds have to be expunged.

8. In view of the above, the portion of paragraph Nos.62 and 63 of the Impugned Order dated 16.10.2018 to the extent of observations made by the

Ld. CIC regarding utilization of Members of Parliament Local Area Development Scheme (MPLADS) funds and the abuse of MPLADS funds stand eschewed. However, the portion whereby the Ld. CIC has directed the public authority under Section 19(8)(a)(iii) of RTI Act to publish MP-wise, Constituency wise and work-wise details of the funds is retained.

9. With these observations, the writ petition is disposed of, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

MAY 15, 2024

S. Zakir