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

Date of Decision: 24th July, 2024.

+ W.P.(C) 4622/2019

PIO, RP CELL, SOUTH DELHI MUNICIPAL CORPORATION

.....Petitioner

Through: Mr. Kunal Vajani, Advocate.

versus

CENTRAL INFORMATION COMMISSION AND ANR.

.....Respondents

Through: Mr. Om Prakash, Mr. Pankaj Kumar,
Mr. Smit Singh Kuru, Advocates for
R-2.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The present petition under Article 226 of the Constitution of India, 1950¹ is directed against the award of compensation under Section 19(8) of the Right to Information Act, 2005² by Central Information Commission/Respondent No.1³ while deciding the second appeal.
2. The grievance of the Petitioner, as urged in the present petition, is that the impugned order dated 1st November, 2018,⁴ passed by CIC, for awarded of compensation of Rs. 50,000/- is without jurisdiction, arbitrary and without application of mind.

¹ "Constitution"

² "RTI Act"

³ "CIC"



3. The underlying facts of the case are as follows:

3.1 Mr. Om Prakash Khorwal/ Respondent No. 2 filed an RTI Application dated 10th January, 2017 seeking certain information with respect to the parking area around SCOPE Complex from the Petitioner. In his application, Respondent No. 2 explained his interest in seeking this information as follows:

“The employee of the CPSEs offices such as MMTC, NTPQ IOCL, QL, ONGC, ITDC etc. of SCOPE, MTNL, Soochna Bhavan & Electronics Niketan were parking their vehicles free of charge here upto 2012. However, from 2012, the SDMC has allotted this area to the contractor and parking charges are beings recovered from the employees for the parking of their vehicles.”

3.2 To the said application, Petitioner on 29th March, 2017, replied as under:

Sl.No.	Question	Answer
6(a)	<i>In the interest of all the employee, please provide me a copy of the allotment letter issued by Ministry of Urban Development, Land & Development Office, Govt. of India to SDMC.</i>	<i>There is no such information with this department.</i>
6(b)	<i>Please provide me the copy of the approval note duly approved by the competent authority in SDMC for the allotment of aforesaid parking near Scope. Please provide me all the administrative approval, including approval for floating of tenders, till the allotment of SCOPE area for parking</i>	<i>Copy enclosed.</i>
6(c)	<i>Please provide me the details of payments received by SDMC against the said parking for the following years. 2012-13, 2013-14, 2014-15, 2015-16.</i>	<i>The SDMC has been receiving the payment against the allotment of the said parking site @ Rs. 5,86,600/- per month, w.e.f 19th June 2015. However, the information regarding previous year i.e. 2012-13, 2013-14, 2014-15 is not</i>

⁴ “Impugned order”



		<p><i>readily available in this department. The applicant is requested to inspect the record file on any working day and may get the information.</i></p>
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3.3. Aggrieved by the inadequate response, Respondent No. 2 filed an appeal. The First Appellate Authority, Deputy Commissioner of the RP Cell, on 23rd May, 2017, directed the Petitioner to furnish all requested information and documents. The Petitioner's failure to comply with this direction led to the escalation of the matter to the CIC. The CIC, while adjudicating the appeal, issued a show cause notice to the Petitioner for awarding compensation under Section 19(8) of the Act. This notice sought called upon the Petitioner to show as to why compensation of Rs. 50,000/- should not be recovered from them and credited to SCOPE.

3.4. The Petitioner filed a reply on 4th December, 2017 and defended their action as follows:

“With reference to above-cited subject in the matter of Mr. Om Prakash Khorwal V/s South Delhi Municipal Corporation, it is submitted that as regards ownership issue of the parking land of Scope Complex Parking site, a letter No. L-IIA-2(23)/59 dated 26.02.2013 was received from Dy. Land & Development Officer, Ministry of Urban Development vide which it was stated that “...land in question is under the control of CPWD and earmarked for common Parking purposes around Scope Complex, Soochna Bhawan, Electronic Niketan and MTNL building situated at CGO Complex, New Delhi. No such allotment has been made to MCD. It is not clear, how South Municipal Corporation has given the land to a private company for the parking contract, the land does not belong to them and the company is charging parking charges from the officer who they got cleared the land from the encroachment. The contract given by the South Delhi Municipal Corporation to M/s Ashima Security Pvt. Ltd. for parking contract may be cancelled immediate and vacate the area”. The above-mentioned letter was duly considered by the department and a reply vide letter bearing No. DC(RPC)/2013/D-155 dt. 23.05.2013 was issued to Land



&Development Officer, Ministry of Urban Development, Govt. of India, Nirman Bhavan, New Delhi whereby department had requested the authority to extend the foil co-operation to the contractor, to run the parking site smoothly in the interest of Municipal Revenue and also in the larger public interest so that the civic body may be able to regulate parking in the area and provide basic amenities to the citizens. Copy of the letter is hereby enclosed for ready reference (Annexure-'A'). No further correspondence was received from Ministry of Urban Development in this regard.

With regard to payment, the contractor had submitted one year advance license fees to the department (before trifurcation of erstwhile MCD) for Rs. 14,36,044/-. The details of the payment is enclosed herewith as Annexure-'B'. Thereafter, the subject parking site was again allotted to M/s M.S. Contractor w.e.f 19.06.2015. The details of the payment w.e.f 19.06.2015 is enclosed herewith as Annexure-'C'.

Further, kind attention is drawn to Hon'ble Lt. Governor of Delhi's note dated 17.04,2012 which is reproduced as under:

"I have discussed the matter with Principal Commissioner (Land Management & Disposal) and other concerned officers of DBA on 11th April 2012 at Raj Niwas and feel that parking sites should be managed under one umbrella to maintain a uniform policy that can be implemented in the larger public interest throughout the National Capital Hence, decision taken during the authority meeting in March 2012 in respect of handing over to parking sites back to DBA by 31.03.2012, present being operated by MCD was not necessary, except for those parking sites which are required for some planned development projects by DDA and the one's which exists in D.A. (i.e. Development area) and require in future for some planned development" A copy of the above note is enclosed as Annexure- 'D'.

The Environment Pollution (Prevention &Control) Authority for the National Capital region has taken initiative to frame a Parking Policy which would be uniformly applicable in the national capital which was, in principle, approved by the Hon'ble Lt. Governor of Delhi. As per the minutes of the meeting of the Authority circulated vide letter no. 47(10)/RN/2012/(RM)/12556 dated 21.08.2012, it was agreed that while authorized parking spaces would be enhanced, wherever possible, the objective of planning would be to regulated such spaces and to limit growth in the future. It was agreed that the city could not provide the equivalent car space (ECS) requirements for its growing population. Further it was also agreed that Municipal Corporations would make provisions in the local plans for public parking spaces.



Copy of the Minutes of Meeting is enclosed herewith as Annexure- 'E', for ready reference.

May kindly refer to Clause 304 of DMC Act 1957 (copy enclosed) which provides that :-

Subject to the provisions contained in Chapter X, The Commissioner may:-

(a) acquire any land required for purpose of opening, widening, extending or otherwise improving any public street or of making any new public street, and any building standing upon such land ;

(b) acquire in relation to any such land or building, all such land with buildings, if any, thereon as the corporation may think expedient to acquire outside of the regular line, or of the intended regular line, of such street.

(c) acquire any land for the purpose of laying out of making a public parking place.

A copy of the relevant extracts of DMC Act, 1957 is enclosed herewith as Annexure- 'F' for kind consideration.

Considering the above-mentioned facts. Central Information Commission may kindly withdraw the show-cause notice as conveyed vide their order No. CIC/SDMCC/A/2017/145422 dated 13.10.2017 (received in this office on 03.11.2017). Delay in submission of reply to GIC's Show Cause Notice dated 13.10.2017 may kindly be condoned.

Hoping favourable consideration,"

3.5. On consideration of Petitioner's response, through the Impugned order dated 1st November, 2018, CIC allowed the appeal and also awarded a compensation of Rs. 50,000/-. The relevant extract of the Impugned order reads as under:

- "16. Considering the peculiar circumstances of the case in hand and the fact that the Appellant has made out a case of denial of information against SDMC, the Commission is inclined to grant compensation. It is rightly contended by the Appellant that the SDMC failed to take remedial steps and the stonewalled the information which, in effect did not allow the Appellant to approach the judicial forum for intervention.*
- 17. The inaction on part of SDMC to furnish information despite the lodging of present RTI application highlighting the apparent*



excessive use of authority cannot be countenanced. The Commission finds that despite bringing the issue to the fore through the present RTI Application in January 2017, the Appellant and hundreds alike suffered avoidable financial detriment on account of denial of information coupled with the inaction of SDMC. Admittedly, since filing of the present RTI application, the SDMC has derived benefit of more than Rs. 50,00,000/- (At the rate of Rs. 5,86,600 for more than 9 months as on date). The amount so generated to the credit of SDMC has a direct nexus with the denial of information in the present case. In other words, the Appellant 86 the class of aggrieved persons stood to lose more than the said amount in the time period for which the information was, kept under wraps. Thus the Commission concludes that an entire class of persons had been suffering due to the denial of information in the present case. The Commission is thus, inclined to award compensation to the Appellant in terms of the Section 19(8)(b).

18. *The Commission finds that the present cause has been pursued by the Appellant pro bono for the benefit of larger public good. Thus the Commission deems the present cause to be pursued by Appellant for 'a class of society' and thus for the purposes. of award of compensation, the same shall be relatable to the. society at large. Since a whole class of employees working around the parking area and visitors thereon have been affected, the compensation amount, if any, would not accrue to any individual.*
19. *The RTI Act 2005 does not prescribe for any pecuniary limit for the award of compensation. The factors guiding the same are to be derived from established law in this regard. Compensation means just equivalent of what the sufferer has been deprived of (See **N. B. Jeejeebhoy vs Assistant Collector; 1965 AIR 1096**) Compensation need not be in terms of money always but in the facts of present case, the SDMC stood benefitted by a commercial money transaction and thus, in considered opinion of Commission, the compensation has be in terms of money only. Accordingly, the respondent SDMC is required to show cause as to why a token compensation amount of **Rs. 50,000/- (Rs. Fifty Thousand Only)** may not be recovered from it and credited to the SCOPE - the petitioner being the employee of SCOPE alongwith other employees who have suffered similar financial detriment. The amount so recovered may be utilised by SCOPE for installing appropriate infrastructure and other facilities for free parking of vehicles by SCOPE employees and visitors. The respondent Public authority is directed to file a reply - in this regard by **31.10.2017**. Hearing on award of compensation shall be, notified in due course.*
20. *The Appeal is allowed in aforesaid terms.*



Proceedings on the quantum of award of Compensation [25.05.2018]

21. In terms of the order dated 13.10.2017, the present appeal is notified for hearing on point of award of compensation.

22. The parties are present and heard. The Asst. Commissioner/R.P. Cell & PIO/RP Cell vide letter dated 04.12.2017 has submitted a written submission advancing the argument that the SDMC was in consultation with MoUD for grant of permission to administer the parking site. A letter was written to MoUD by SDMC dated 23.05.2013 for regularization of the apparent irregularity. However, admittedly, no communication was received.

23. The respondent contends that had the PIO responded clearly on all the points of RTI application, he could have approached the Hon'ble Delhi High Court seeking appropriate relief admissible under law. He states that due to continued denial of information, he could not pursue his legal remedy and thus, was constrained to shell out money for availing parking facilities which ought to have been available for free.

24. The Commission finds that mere correspondence made by SDMC to MoUD for extending support does not, by itself furthers cause of SDMC. There is nothing on record to suggest that MoUD acceded to such request of SDMC. Be that, as it may, the Commission is not examining this question in isolation but in view of the denial of information suffered by appellant. The appellant was not furnished a clear reply, especially under point no. 1. It is thus, the Commission finds the appellant to have suffered detriment due to denial of correct information. Had the appellant been informed clearly in time, he could have approached the

25. Accordingly, the Commission finds the appellant entitled for compensation and directs respondent public authority, SDMC to remit Rs. 50,000/- as token compensation! in name of Director General, SCOPE since, the appellant being the employee of SCOPE alongwith other employees have suffered similar financial detriment. The amount so recovered may be utilised by SCOPE for installing appropriate infrastructure and other facilities for free parking of vehicles by SCOPE employees and visitors.

26. The decision shall be complied within 4 weeks of receipt under intimation to the Commission. The appeal is disposed of."

Contentions on behalf of the Petitioner:

4. Petitioner assails the award of compensation by arguing that the Petitioner had provided full and complete information/documents to Respondent No. 2 through the reply dated 29th March, 2017. In so far as



information pertaining to allotment letter issued by Ministry of Urban Development is concerned, the Petitioner categorically stated that no such information was available with the Department. The Petitioner asserts that non-availability of information precludes any possibility of wilful denial of information. In view thereof, it is urged that the observation of the CIC in para 24 of the Impugned Order suggesting non-compliance in furnishing information under point 6(a) of the RTI application, is based on a misunderstanding of the facts and is thus untenable.

5. The award of compensation under Section 19(8) of the RTI Act hinges on a clear demonstration that the Petitioner possessed, yet unfairly withheld the requested information. This necessitates a factual determination as to whether the documents were indeed available with the Petitioner and deliberately withheld. Without such foundational findings, there is no basis for determining the alleged loss suffered by Respondent No. 2 due to any denial of information. Thus, the imposition of compensation by Respondent No. 1, is without merit and legally unsustainable.

6. In addition, thereto, Petitioner relies on the note prepared by Lt. Governor of Delhi dated 11th April 2012 to contend that the allotment by the SDMC of the area around SCOPE Complex to a contractor was legitimate:

“I have discussed the matter with Principal Commissioner (Land Management 85 Disposal) and other concerned officers of DDA on 11th April 2012 at Raj Niwas and feel that parking sites should be managed under one umbrella to maintain a uniform policy that can be implemented in the larger public interest throughout the National Capital. Hence, decision taken during the Authority Meeting in March 2012 in respect of handing over of parking sites back to DDA by 31.03.2012, presently being operated by MCD was not necessary, except for those parking sites which are required for some planned development projects by DDA and the one's which exists in D.A. (i.e. Development Area) and require in future for some planned development.”



7. There is no rationale behind the compensation award of Rs. 50,000/-. The CIC has failed to provide a concrete basis for determining this figure, particularly given that the information allegedly withheld was not conclusively shown to have been available and deliberately denied by the Petitioner.

8. The compensation awarded is disproportionate and exceeds statutory limits. Section 20 of the RTI Act specifies a maximum penalty of Rs. 25,000/- for non-compliance. Hence, awarding Rs. 50,000/- as compensation not only lacks legal justification but also improperly imposes a financial burden that goes beyond the prescribed statutory ceiling. This discrepancy underscores the need for reassessment and adjustment of the awarded compensation, ensuring alignment with legal provisions.

Contentions of Respondent No.2

9. Counsel for Respondent No. 2, on the other hand, submits that the Petitioner is trying to mislead the Court on the question of award of compensation. The power of CIC to award compensation can be traced to Section 19(8)(b) of the RTI Act, which is independent of the power to impose penalty provided under the Act. Indeed, the maximum amount of penalty under Section 20 of the RTI Act read with Section 19(8)(c), is Rs. 25,000/-, however, there is no such restriction on the award of compensation.

10. The compensation of Rs. 50,000/- has been awarded in the interest of justice. This amount reflects not a punitive but a remedial measure, aimed at addressing the benefits unjustly accrued to the Petitioner due to withholding information. It is highlighted that the compensation is not awarded to



Respondent No. 2 personally but is directed to be used by SCOPE for enhancements that benefit the public at large. This demonstrates the CIC's commitment to fairness and its intention to improve public infrastructure, rather than penalizing the Petitioner unduly. The allocation of these funds for public use further underscores the proportionality and appropriateness of the compensation in relation to the Petitioner's enrichment from the withheld information.

11. The communication dated 26th February, 2013 sent by Land and Development Officer, Ministry of Urban Development⁵ to South Delhi Municipal Corporation⁶ clearly states that there was no such allotment of land to MCD. This communication further queries how SDMC had allocated land, which did not belong to it, to a private entity for parking contract. It further and expressly demanded the cancellation of such contracts and immediate vacation of the land. This establishes that the Petitioner had knowledge of the situation yet chose to withhold this crucial information from Respondent No. 2, characterizing a wilful act of information concealment.

12. The response to Point 6(a) of the RTI application lacked clarity and transparency. The Petitioner, being fully aware that there was no official allotment for the land in question, ought to have disclosed this fact explicitly. Instead, the response provided was evasive, which justifies the award of compensation for misleading the RTI Applicant and thereby thwarting potential legal recourse or corrective actions that could have been initiated by the affected parties.

⁵ "L&DO"

⁶ "SDMC"



13. To strengthen his case, Respondent No. 2 relies upon the decision in W.P.(C) 6789/2018 dated 17th March 2023, where this Court addressed a related grievance concerning the parking site near SCOPE Complex on Lodhi Road, the precise subject matter of the RTI application under consideration. In that decision, the Court noted the clear and unequivocal stand of the L&DO that the parking contract was unauthorized, further validating the claim that the Petitioner's non-disclosure in the RTI response was not only misleading but also had significant legal implications.

Analysis and Findings

14. The Court has carefully deliberated upon the contentions advanced in the present writ petition. The limited scope of scrutiny pertains to the award of compensation of Rs. 50,000/-.

15. The power of CIC to award compensation, stems from Section 19(8)(b) of the RTI Act which reads as follows:

*“(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to—
(b) require the public authority to compensate the complainant for any loss or other detriment suffered;”*

16. Section 19(8) of the Act expressly provides CIC or the SIC the power to require the public authority to take necessary steps for compliance with the provisions of the Act and also direct the public authority in a given case, to compensate the complainant for any loss or detriment suffered. Thus, under the Scheme of the Act, the provisions of Section 19(8) are adjunct to the Appellate power of the CIC or SIC while deciding an appeal against the decision of the First Appellate Authority (FAA).

17. Thus, it cannot be in dispute that CIC was empowered to award



compensation to the complainant. The RTI Act does not place an upper limit on the amount of compensation that the CIC can award under Section 19(8)(b) of the Act. This provision is intended to redress any loss or detriment that the complainant may have suffered due to non-compliance with the Act by a public authority. However, CIC's power to award compensation to the complainant under the aforementioned provision must necessarily be connected to or a consequence of denial of complete information as sought by the complainant. CIC cannot take recourse to Section 19(8)(b) of the Act to provide compensation in relation to any other dispute that an information seeker may have with the public authority which is not relatable or connected with the provisions of the Act. The CIC's compensatory powers must be applied judiciously and only where a clear causal connection exists between the act of non-compliance and loss or detriment suffered by the information seeker.

18. In this case, the record indicates that the Petitioner initially provided some information but withheld certain crucial details about the allotment and usage of the parking area in question. The CIC, upon reviewing the entirety of the circumstances, including the submissions and the documents provided during the proceedings, found that there was a wilful obstruction of information which could have facilitated legal or corrective measures by the affected individuals or entities. Accordingly, after issuing a show-cause notice to the public authority/Petitioner herein, proceeded to determine the quantum of award of compensation as can be discerned from the impugned order extracted in Paragraph 3.5 of this order.

19. CIC has categorically concluded that Respondent No. 2 did not receive the pertinent information under Point No. 6(a) which is tabulated in



Para 3 of this order. Respondent No. 2's inquiries were driven by concerns over the South Delhi Municipal Corporation (SDMC) unlawfully charging parking fees in the SCOPE Complex area—a benefit previously enjoyed for free by employees, including Respondent No. 2. He focussed on the legitimacy of SDMC's arrangement of permitting a private third party to collect these fees without any lawful authorization. Consequently, Respondent No. 2's RTI application under Point 6(a) sought details of any allotment letters issued by the Ministry of Urban Development's L&DO to the SDMC authorizing such actions. The SDMC's response— "*there is no such information with this department* "—was plainly insufficient and evasive. This response was later contradicted by L&DO's confirmation that the SDMC had no rights to delegate the parking area for fee collection, affirming that there was indeed a regulatory overstep. The SDMC's evasive and non-committal replies to the critical queries raised in the RTI application, particularly concerning the legal basis for the parking fees, significantly obstructed Respondent No. 2 from seeking resolution of this issue. This lack of forthrightness persisted even during the CIC proceedings when the PIO failed to substantiate the legal grounds for SDMC's actions with regards to the parking site, which both MoUD and CPWD designated for free use. The evasive and vague responses provided by the SDMC, as indicated by their reluctance to disclose full and accurate information, suggest a deliberate obfuscation of facts. The impugned order awarding compensation is justified in light of the avoidable delays and obstructions caused in resolving Respondent No. 2's legitimate concerns.

20. The Court notes that the delay in providing the requested information undoubtedly hindered Respondent No. 2 in pursuing timely legal remedies.



As a consequence, Respondent No. 2 incurred unnecessary expenses for parking facilities that should have been available at no cost. This direct financial impact, resulting from the delayed disclosure of information, underscores the substantive connection between the denial of information and the financial losses incurred by Respondent No.2. Therefore, the failure to provide timely and accurate information not only contravened the provisions of the RTI Act but also led to undue financial burdens on Respondent No. 2, justifying the need for compensation.

21. This Court also notes that in rendering the Impugned decision, the CIC recognized the broader public interest that Respondent No. 2's pursuits brought to light. CIC was of the opinion that the information sought was not solely for personal benefit but had implications for a significant segment of society—namely, the employees working around the parking areas and the visiting public who have been inadvertently affected by the parking charges. This collective impact compelled CIC to award compensation that addresses the interests of the affected community rather than an individual claim. Accordingly, the CIC adjudicated that the compensation should be paid to the Directorate General, SCOPE, recognizing that Respondent No. 2, along with other similarly situated employees, has endured financial detriment due to the unauthorized parking fees.

22. The intent behind the award of compensation may be deserving, however, the scope of compensation under Section 19(8)(b) of the RTI Act is limited. The provision is specifically tailored to address losses or detriments suffered directly by the complainant due to the non-compliance by the Public Authority with the Act. This provision empowers the Central Information Commission or State Information Commission to mandate



compensation for any detriment the complainant has personally suffered.

Section 19(8)(b) of the RTI Act reads as follows:

*“(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to—
(b) require the public authority to compensate the **complainant for any loss or other detriment suffered;**”*

[Emphasis Supplied]

23. Thus, while the CIC possesses the authority to award compensation to information seeker, it is imperative that such compensation directly correlates with the personal detriment experienced by the complainant— Respondent No. 2 in this case. Awarding compensation based on losses suffered by parties other than the complainant stretches beyond the intended scope of Section 19(8)(b) of the RTI Act. Nonetheless, given the consequential financial losses borne by Respondent No. 2, the compensation of INR 50,000 is deemed reasonable and just even if it is directed to be payable exclusively to Respondent No. 2. In the opinion of the court, even if the losses suffered by individuals other than the complainant/Respondent No.2 is not factored in, compensation of INR 50,000/- is justified. This amount accounts for the financial losses incurred by Respondent No. 2, including parking charges, legal fees, and other costs associated with pursuing the issue following the denial of information by the Petitioner.

24. Counsel for Respondent No.2 submits that they are agreeable to the directions issued in the Impugned order for payment of compensation to the Director General, SCOPE which is to be utilised for benefit of public good. Instead of claiming the compensation for personal use, Respondent No. 2 has chosen to serve a broader community benefit, thereby reinforcing the spirit of the RTI Act. The Court expresses its appreciation for this



commendable approach.

25. In these circumstances, this Court does not find any ground to interfere with the award of compensation of Rs. 50,000/-. This payment is deemed to be awarded in favour of the Respondent No.2. However, as desired by him this Compensation shall be utilised by SCOPE for the benefit of the general public using the parking lot, as directed by CIC.

26. Disposed of along with pending applications.

SANJEEV NARULA, J

JULY 24, 2024

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