

Court No. - 29

Case :- WRIT - C No. - 21556 of 2013

Petitioner :- Shri Ajeet Shukla

Respondent :- New Okhla Industrial Development Authority And 2 Others

Petitioner Counsel :- Ajeet Shukla

Respondent Counsel :- Shivam Yadav

Hon'ble Sunil Ambwani,J.

Hon'ble Manoj Kumar Gupta,J.

1. We have heard Shri Ajeet Shukla, the petitioner appearing in person. Shri Shivam Yadav appears for the respondents.

2. By this writ petition the petitioner has prayed for following reliefs:-

"a) issue writ, order or direction in the nature of mandamus directing the respondent no.3 to furnish the requisitioned information to the petitioner under his RTI application dated 12.9.2012 and in terms of order dated 4.1.2013 passed by the respondent no.2.

b) issue any other writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

3. The petitioner applied to the Public Information Officer, New Okhla Industrial Development Authority on 12.9.2012 for providing information regarding the name of the original allottee of the Plot No.452, Sector-XV-A; the date of the original allotment and date of lease deed; whether any transfer memorandum/permission to transfer has been issued by NOIDA authority in respect of the said plot; and if the answer to Question No.3 is "Yes", then date and reference no. of the transfer memorandum and in whose name the said permission has been granted; in whose name the "plot in Question" stands registered as of today and on what basis and whether any mortgage permission" has been sought for and allowed in respect of the said plot since date of allotment.

4. It is stated that the NOIDA authorities evaded to give the information. A reply was received after the Appellate Authority directed the Public Information Officer to respond, stating that the concerned file is not available in the record room and as soon as the record is made available, the information will be provided.

5. The petitioner has again approached the Appellate Authority under (The) Right to Information Act, 2005 (the Act) against the denial of information to him by a representation dated 13.12.2012.

6. The petitioner has not yet approached the State Information Commission and has filed this writ petition for enforcement of his

rights under Section 6 (2) of the Right to Information Act, 2005 for a direction to respondents to provide the information.

7. The petitioner is an Advocate practicing in Delhi. He has no concern with the plot in question or the documents of mortgage, which he alleges to have been executed illegally as a collateral security by the allottee in favour of the bank. According to the petitioner the plot in question belongs to a friend, and that the petitioner, without disclosing his concern with the plot, is seeking the information under the Act, which does not require the applicant to disclose his identity, purpose and object to seek the information, except for the exceptions provided under the Act.

8. It is submitted by the petitioner, that the Act does not provide for consequences of non-compliance of the order of the Central Public Information Officer or State Public Information Officer, and the Appellate Authority. Chapter-V of the Act only provides for penalties against the Public Information Officer in a different context and thus the petitioner has no alternative efficacious remedy available to him but to approach this Court under Article 226 of Constitution of India.

9. The petitioner has not exhausted the remedies provided under the Act by filing an appeal in the State Information Commission, which has powers to summon the concerned Officer, who holds the information in his possession and to punish him for breach of the provisions of the Act prescribing penalties. He has rushed to the Court seeking a direction to provide the information.

10. A writ petition under Article 226 of Constitution of India can be entertained at the instance of a person, who is aggrieved by any action of the State or an authority under Article 12 of the Constitution of India after availing the alternative remedies. The writ petition is not maintainable by a proxy or for any friend or relative unless and until such friend or relative has authorised the person by way of power of attorney or is not in a capacity to approach the Court himself for any disability.

11. The Right to Information Act has been enacted to provide information in public domain to maintain transparency and accountability of the public authorities. The Act has consciously not provided any remedies for execution by way of punishment or imprisonment, as in the case of remedies for breach of orders passed by Courts. The Act, however, prescribes sufficient punitive remedies against the officers, who withhold the information to be provided, subject to exceptions under the Act without any

sufficient reason.

12. In Central Board of Secondary Education and another vs. Aditya Bandopadhyay and others (2011) 8 SCC 497, the Supreme Court observed in paragraphs 66 and 67 as follows:-

"66. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information,(that is information other than those enumerated in section 4(1)(b) and (c) of the Act), equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of governments, etc.).

67. Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising 'information furnishing', at the cost of their normal and regular duties."

13. In the present case, the petitioner is not an aggrieved person nor is either directly or indirectly concerned by any allotment or the mortgage of plot. He is enforcing his rights as a citizen of India for the benefit of a friend for seeking the information, for which sufficient remedies are provided under the Act.

14. The writ petition at the instance of the petitioner, who is not an aggrieved person nor acquired any cause of action in respect of any damage or injury, is **dismissed** with liberty to the petitioner to pursue the remedies, which are available to him under the Act.

Order Date :- 18.4.2013

RKP