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

Date of decision: 01.07.2025

\+ W.P.(C) 13654/2023 & CM APPLs. 53920/2023, 11504/2024, 56245/2024, 66877/2024, 73838/2024, 7493/2025, 7892/2025, 7893/2025, 13923/2025, 16436/2025

HINDUSTAN PETROLEUM CORPORATION LIMITED & ORS. .....Petitioners

Through: Mr. Krishnan Venugopal, Senior Advocate with Mr. Sanjay Kapur, Mr. Devesh Dubey, Mr. Surya Prakash, Mr. Avinash Mathews, Advocates.

versus

MR SIDDHARTHA MUKHERJEE .....Respondent

Through: Dr. Puran Chand, Ms. Anita Chahal, Ms. Shashi, Advocates for respondent (in person).
Mr. Surinder Kumar Virdi, Intervenor.
Mr. Abhay Kumar, Amicus Curiae.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

1. By way of this petition under Article 226 of the Constitution, the petitioners assail an order dated 27.09.2023 passed by the Central Information Commission ["CIC"], by which it issued show cause notices to petitioner Nos. 2 and 3 under Section 20(1) of the Right to Information Act, 2005 ["the RTI Act"].

A. FACTS:

2. Petitioner No. 1 – Hindustan Petroleum Corporation Limited ["HPCL"] is a Public Sector Undertaking of the Central Government. Petitioner No. 2 is a former Central Public Information Officer ["CPIO"] of HPCL, and petitioner No. 3 was its CPIO at the time of filing of the writ petition.

3. The respondent is an employee of HPCL, presently under suspension. There is some history of litigation between the parties, including a challenge by the respondent before this Court, to the suspension order dated 29.01.2021 [W.P.(C) 2974/2021]. However, the said writ petition was withdrawn on 05.03.2021. The respondent's suspension was thereafter revoked by HPCL *vide* order dated 03.06.2021, and he was directed to report for duty at HPCL's establishment in Rewari. He has challenged his re-assignment in another writ petition [W.P.(C) No. 8008 of 2021], which remains pending. The respondent has also filed several requests under the RTI Act, with the concerned offices of HPCL.

4. The present proceedings arise out of one such application, filed by the respondent on 23.12.2021, seeking the following information:

> "*CPIO is requested to furnish a copy of the list of its empaneled advocates for Honorable Supreme Court, High Courts as well as Sessions and District Courts. The period for which the information is sought is during the last 15 years with more emphasis in the current empanelment.*"

5. HPCL responded on 07.01.2022, with the following remarks:

> "*In HPCL Advocates are engaged on a case to case basis. HPCL we do not empanel Advocates for Honorable Supreme Court, High Courts as well as Sessions and District Courts, any other courts/tribunals. Thus, the information sought is neither held by HPCL nor available with HPCL.*"

6. This was challenged by the respondent in a first appeal filed on 04.02.2022, contending that the CPIO had furnished false information.

7. The First Appellate Authority ["FAA"] disposed of the appeal on 08.02.2022, with the following remarks:

> "*The CPIO has correctly informed that HPCL does not follow empanelment of lawyers. We do not have a panel of advocates. Advocates are engaged across India in various Courts based on need. Even though the list of advocates is not readily available, but the same has been compiled on your request and the list is enclosed. These Advocates have handled cases for HPCL in the past or are currently handling cases. This is for your kind information. Your Appeal is disposed of accordingly.*"

8. Alongwith the order of the FAA, a list of names of 603 lawyers and the Courts before which they appeared on behalf of HPCL, was furnished to the respondent.

9. The respondent, however, remained dissatisfied, and filed a complaint with CIC dated 28.02.2022, under Section 18(1)(e) read with Section 20 of the RTI Act. In the complaint, it was stated that the list of advocates furnished, alongwith the order of the FAA, was an incomplete list, as the names of certain advocates, who had appeared on behalf of HPCL against the respondent, did not appear in the said list. The respondent asserted that HPCL did, in fact, maintain a panel of advocates, and that the panel had been withheld from the respondent contrary to the tenets of the RTI Act.

10. HPCL, through its Chief Manager (Legal) & CPIO [petitioner no. 3 herein], filed written submissions before CIC on 23.08.2023. It was once again asserted that HPCL does not empanel advocates, but engages advocates on a case-to-case basis, based on the nature and complexity of the matter. It was, therefore, submitted that there was no comprehensive

central list of advocates, which the CPIO was required to furnish to the respondent. It was also submitted that the empanelment of advocates is not mandated in law. With regard to the list of advocates furnished to the respondent, HPCL stated that the names of advocates, who had been instructed on behalf of HPCL, was collated from computer systems maintained by the Legal department, and shared with the respondent in good faith. HPCL also cited statutory provisions and judgments in support of its contention. In the written submissions filed, HPCL also placed on record that the respondent was its employee, who had been subjected to disciplinary proceedings for unauthorised absence. It was mentioned that the respondent had filed four petitions in this Court against HPCL, in addition to 160 applications under the RTI Act, 111 first appeals and 48 second appeals arising therefrom, against HPCL. HPCL contended that such conduct revealed the *mala fides* of the respondent's application, which was not intended to serve any larger public interest.

11. By the impugned order dated 27.09.2023, CIC issued show cause notices to petitioner Nos. 2 and 3, with the following observations:

> "*6. The Commission after adverting to the facts and circumstances of the case, hearing both the parties and perusal of records, observed that the complainant has filed the complaint aggrieved by non-receipt of correct & appropriate information with respect to the information sought i.e. copy of list of empanelled advocates for Hon'ble Supreme Court, High Courts as well as Sessions and District Courts.* ***The respondent had denied the empanelment of advocates.*** *The complainant inter-alia submitted that he had received a list of advocates, consisting of 603 advocates who had been engaged by the respondent Corporation throughout the country for different cases, from the FAA and also from CPIO in response to another RTI application.* ***The respondent during the course of hearing informed that they did not have practice of empaneling advocates. They pick and choose counsels to defend their cases in various cases. The public authorities are supposed to act in non-discriminatory and reasonable manner, that too, in respect of managing conflicts and contradictions. It***

> ***is not normally the practice that one wing of the Public Authority engages advocates within the list or even out of the list on case to case basis while in other wing, especially in the Headquarter the practice of pick and choose was followed. The practice of empaneling advocates was not invoked. Public Authorities are supposed to follow the standard norms and the discretion wherever conferred is not unfettered discretion and same is supposed to be guided by certain norms. The respondent have failed to bring on record the guidelines, conferring on them unfettered powers for engaging lawyers without preparing panels. The apprehension of the complainant was that the respondent denied the information in the true spirit of RTI Act. It may not be out of place to mention that the very objective of RTI is to bring transparency and accountability in the functioning of public authority. On the one hand, by exercising administrative decision of engaging advocates/counsel there is an element of State largesse being conferred upon the counsel in the form of fees which according to the respondent is decided on case-to-case basis. On the other hand, there is a loss to public ex-chequer by thrusting the public authority into unwarranted litigation, if the policy of engaging with definite terms and conditions is not codified. It appears that the respondent had evaded the disclosure of the information.*** *In view of the above, Shri Vinod Balooni, present CPIO and the then CPIO (as on 07.01.2022), are show caused as to why penalty under section 20 (1) of the RTI Act may not be imposed upon each of them for not furnishing the requisite information. The present CPIO is given the responsibility to serve a copy of this order upon the then CPIO and secure his written explanations as well as his attendance on the next date of hearing. All written submissions may be uploaded on the Commission's web portal within 21 days including the noting of few cases of engaging/empanelling counsels to defend or to file petitions on behalf of the respondent.*"[1]

12. The impugned order is challenged in this petition by HPCL, and two officers, being the former CPIO and the CPIO, who was in office at the time of filing of the petition.

13. Notice was issued in this writ petition on 16.10.2023, and the impugned order was stayed.

14. By an order dated 08.05.2024, Mr. Abhay Kumar, learned counsel, was requested to assist the Court as *Amicus Curiae*, particularly to present

[1] Emphasis supplied.

the case of the respondent, who had earlier appeared in person. The respondent has since engaged Dr. Puran Chand, learned counsel, to represent him.

B. RELEVANT PROVISIONS OF THE RTI ACT:

15. The relevant provisions of the RTI Act are set out below:

Section 2(f): Definition of "information"

"*2 (f). "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;*"

Section 18: Powers and functions of Information Commissions

18. (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 subsection (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****;*
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> *(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;*
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> *(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, 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."[2]

Section 20: Penalties

"*20. (1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has,* ***without any reasonable cause,*** *refused to receive an application for information or has not furnished information within the time specified*

[2] Emphasis supplied.

under sub-section (1) of section 7 or malafidely denied the request for information ***or knowingly given incorrect, incomplete or misleading information*** *or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information,* ***it shall impose a penalty*** *of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:*

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him.

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under subsection (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him."[3]

C. SUBMISSIONS OF COUNSEL:

16. Mr. Krishnan Venugopal, learned Senior Counsel for the petitioners, submitted that the impugned order is entirely in excess of the scope of Sections 18 and 20 of the RTI Act. He contended that CIC has no jurisdiction to enter into policy issues – in this case, whether or not HPCL ought to maintain a panel of advocates. The jurisdiction under the statute is confined to furnishing of information maintained by the public

[3] Emphasis supplied.

authority, and a complaint under Section 18 of the RTI Act can be entertained only if the PIO has withheld information available with it.

17. Mr. Venugopal further drew my attention to an order dated 13.06.2023, passed by CIC, in nine second appeals filed by the respondent herein against the petitioner. After dealing with the appeals individually, CIC noted that those appeals, as well as four writ petitions before this Court and other proceedings before various Courts, arise out of employer-employee disputes and grievances of the respondent. Relying upon the judgment in *Union of India v. Namit Sharma*[4], CIC observed as follows:

> "*The Applicant in these cases has various issues with his employer organisation and has rightly approached the High Court seeking resolution thereof. However, filing repeated RTI applications against the concerned public authority is unlikely to lead to resolution of these disputes.*
>
> *In fact, it is interesting to note that such litigation whereby the Act has been misused or abused as a weapon for settling personal scores has been discouraged by not only this Commission but also the Courts of law.*"

18. Mr. Venugopal also cited several judgments of the Supreme Court, to which I shall refer to in due course.

19. Dr. Chand took two preliminary objections to the present writ petition. He submitted that CIC had not been impleaded as a party respondent, leaving a private individual [the original applicant/complainant under the RTI Act] as the sole respondent. According to Dr. Chand, the petition under Article 226 of the Constitution cannot be entertained against a private respondent alone.

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[4] (2013) 10 SCC 359, [hereinafter, "*Namit Sharma 2*"].

20. Dr. Chand's second objection was that the writ petition is premature, as the impugned order only directs issuance of show cause notices to petitioner Nos. 2 and 3. He submitted that the Court ought not to interfere at this stage, and instead leave it to petitioner Nos. 2 and 3 to show cause, subject to their remedies after a final decision. Dr. Chand cited a judgment of the Supreme Court in *Namit Sharma v. Union of India*[5] in support of his contention.

21. Mr. Abhay Kumar, learned *Amicus Curiae*, drew my attention to a reply dated 26.02.2021, furnished by HPCL to a different RTI application filed by the respondent, in which also certain queries were raised with regard to empanelment of counsel who had appeared on behalf of HPCL. The reply states that the information as to whether the counsel in question was an "*empaneled advocate*" of HPCL would not be disclosed, as the respondent himself was involved in several litigations against HPCL.

D. ANALYSIS:

22. Before dealing with Mr. Venugopal's arguments on merits, the two preliminary objections taken by Dr. Chand must be considered.

23. As far as non-impleadment of CIC is concerned, Mr. Venugopal submitted that CIC had originally been impleaded as respondent No. 2 in the writ petition, but was deleted upon a defect being raised by the Registry that it should not be made a party. This defect was raised in view

[5] (2013) 1 SCC 745, [hereinafter, "*Namit Sharma 1*"]. This judgment was delivered on 13.09.2012, but was subsequently reviewed by a further judgment dated 03.09.2013, cited by Mr. Venugopal [*Namit Sharma 2*].

of the observations of the Division Bench of this Court in *Union Public Service Commission vs. Shiv Shambhu & Ors.*[6]:

> "*2. At the outset this Court directs the deletion of the CIC which has been arrayed as Respondent No. 1 to this appeal, consequent upon it being arrayed as such in the writ petition. This Court has repeatedly issued practice directions stressing that a judicial or quasi-judicial body or Tribunal whose order is challenged in a writ petition (and thereafter possibly in appeal) ought not to itself be impleaded as a party respondent. The only exception would be if malafides are alleged against any individual member of such authority or Tribunal in which case again it would be such member, and not the authority/Tribunal, who may be impleaded as a respondent. Accordingly the cause title of the present appeal will read as Union Public Service Commission v. Shiv Shambhu & Ors.*"

24. The judgment was followed by the learned Single Judge in *State Bank of India vs. Mohd. Shahjahan*[7] and *Registrar of Companies & Ors. vs. Dhamendra Kr. Garg & Anr.*[8].

25. In light of these decisions, and the fact that the petitioners were compelled to delete CIC from the array of parties, consequent upon a defect being raised, the preliminary objection on this ground is rejected.

26. Turning now to the question of whether the writ petition ought to be entertained at the show cause notice stage, it may be first clarified that there is no universal rule prohibiting such a course. Where proceedings had been taken entirely without jurisdiction, which is the submission of Mr. Venugopal in this case, it would be open to the Court to interfere even against a show cause notice[9]. Where, however, a discussion on the facts

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[6] 2008 SCC OnLine Del 1011.
[7] 2010 SCC OnLine Del 2327.
[8] 2012 SCC OnLine Del 3263, [hereinafter, "*Dhamendra Kr. Garg*"].
[9] Examples of cases in which the Supreme Court held that intervention at the show cause notice stage was justified are found *inter alia* in *Siemens Ltd. v. State of Maharashtra* [(2006) 12 SCC 33] (paragraph 9), and *Union of India v. VICCO Laboratories* [(2007) 13 SCC 270] (paragraph 31). Coordinate benches of this Court have also considered it appropriate to entertain writ petitions against

of the case is required, the Court would generally exercise a self-imposed restriction against entertaining a writ petition. In the present case, the dispute concerns the jurisdiction of CIC under Sections 18 and 20 of the RTI Act. HPCL has taken a clear position that the information sought by the respondent is not maintained by it at all. There is no controversy on merits or on facts, which would require determination at this stage. Keeping in mind the nature of Mr. Venugopal's submissions, I am therefore of the view that the present case does not deserve to be rejected on this preliminary ground.

27. The scope of the penalty provision in Section 20 of the RTI Act has been explained in detail in the decision of a coordinate Bench in *Dhamendra Kr. Garg*. In this case also, CIC directed issuance of show cause notices to Public Information Officers ["PIO"]. The observations of the Court, relevant for the present case, are as follows:

> "*60. I may also observe that the approach of the Central Information Commission in seeking to invoke Section 20 of the RTI Act in the facts of the present case is wholly unjustified. By no stretch of imagination could it have been said that PIOs of the ROC had acted "without any reasonable cause" or "malafidely denied the request for information or knowingly gave incorrect, incomplete or misleading information, or destroyed information, which was the subject of the request, or obstructed in any manner the furnishing of information". The PIOs were guided by the departmental circular No. 1/2006 dated 24.01.2006 in the view that they communicate to the respondent-querist. This view was taken by none other than the Director Inspection & Investigation in the Ministry of Company Affairs, Government of India and circulated to all Regional Directors of Registrar of Companies and all Official Liquidators. There was nothing before the PIOs to suggest that the said view had been disproved by any judicial or quasi-judicial authority. Clearly, the PIOs acted bonafide and without any malice.*
> *61. Even if it were to be assumed for the sake of argument, that the view*

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show cause notices issued under Section 20 of the RTI Act: see, e.g., *Dhamendra Kr. Garg,* and *Bar Council of Delhi v. Central Information Commission* [2017 SCC OnLine Del 6992].

taken by the learned Central Information Commissioner in the impugned order was correct, and that the PIOs were obliged to provide the information, which was otherwise retrievable by the querist by resort to Section 610 of the Companies Act, it could not be said that the information had been withheld malafide or deliberately without any reasonable cause. ***It can happen that the PIO may genuinely and bonafidely entertain the belief and hold the view that the information sought by the querist cannot be provided for one or the other reasons. Merely because the CIC eventually finds that the view taken by the PIO was not correct, it cannot automatically lead to issuance of a show-cause notice under Section 20 of the RTI Act and the imposition of penalty.*** *The legislature has cautiously provided that only in cases of malafides or unreasonable conduct, i.e., where the PIO, without reasonable cause refuses to receive the application, or provide the information, or knowingly gives incorrect, incomplete or misleading information or destroys the information, that the personal penalty on the PIO can be imposed. This was certainly not one such case.* ***If the CIC starts imposing penalty on the PIOs in every other case, without any justification, it would instill a sense of constant apprehension in those functioning as PIOs in the public authorities, and would put undue pressure on them. They would not be able to fulfill their statutory duties under the RTI Act with an independent mind and with objectivity.*** *Such consequences would not auger well for the future development and growth of the regime that the RTI Act seeks to bring in, and may lead to skewed and imbalanced decisions by the PIOs Appellate Authorities and the CIC. It may even lead to unreasonable and absurd orders and bring the institutions created by the RTI Act in disrepute.*"[10]

28. Another coordinate Bench, in *Bar Council of Delhi v. Central Information Commission*[11], set aside a show cause notice with regard to penalty under Section 20 of the RTI Act, noting that the public authority had indicated that all available information had already been provided.

29. The Supreme Court in *Manohar v. State of Maharashtra*[12] was concerned with a case under Section 20(2) of the RTI Act, in which the State Information Commissioner had directed initiation of disciplinary proceedings against the PIO. The provision of Section 20(2) of the RTI

[10] Emphasis supplied.
[11] 2017 SCC OnLine Del 6992.
[12] (2012) 13 SCC 14.

Act is substantially similar to Section 20(1) of the RTI Act, which deals with imposition of penalties. The Court analysed the provision as follows:

> "*31. It appears that the facts have not been correctly noticed and, in any case, not in their entirety by the State Information Commission. It had formed an opinion that the appellant was negligent and had not performed the duty cast upon him. The Commission noticed that there was 73 days' delay in informing the applicant and, thus, there was negligence while performing duties.* ***If one examines the provisions of Section 20(2) in their entirety then it becomes obvious that every default on the part of the officer concerned may not result in issuance of a recommendation for disciplinary action. The case must fall in any of the specified defaults and reasoned finding has to be recorded by the Commission while making such recommendations.*** *"Negligence" per se is not a ground on which proceedings under Section 20(2) of the Act can be invoked. The Commission must return a finding that such negligence, delay or default is persistent and without reasonable cause. In our considered view, the Commission, in the present case, has erred in not recording such definite finding. The appellant herein had not failed to receive any application, had not failed to act within the period of 30 days (as he had written a letter calling for information), had not mala fide denied the request for information, had not furnished any incorrect or misleading information, had not destroyed any information and had not obstructed the furnishing of the information. On the contrary, he had taken steps to facilitate the providing of information by writing the stated letters. May be the letter dated 11-4-2007 was not written within the period of 30 days requiring Respondent 2 to furnish details of the period for which such information was required but the fact remained that such letter was written and Respondent 2 did not even bother to respond to the said enquiry. He just kept on filing appeal after appeal. After 4-4-2007, the date when the appellant was transferred to Akola, he was not responsible for the acts of omissions and/or commission of the office at Nanded.*"[13]

30. Mr. Venugopal also cited a judgment by another coordinate Bench, in *Shishir Chand v. Central Information Commission*[14], which recorded increase abuse of misuse of the RTI Act, which would impede

[13] Emphasis supplied.
[14] 2023 SCC OnLine Del 8108, [hereinafter, "*Shishir Chand*"].

government servants from discharging their duties, rather than further good governance.

31. Similarly, in *Central Board of Secondary Education & Anr. v. Aditya Bandopadhyay & Ors.*[15], the Supreme Court sounded a note of caution in the following terms:

> "*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 the 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 Sections 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 the 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 counterproductive 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, tranquillity 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.*"[16]

[15] (2011) 8 SCC 497, [hereinafter, "*Aditya Bandopadhyay*"].
[16] Emphasis supplied.

32. Applying these authorities to the facts of the present case, I am of the view that the approach of CIC in the impugned order is wholly *ultra vires* its powers under the RTI Act. The respondent's request was for a list of empaneled advocates. HPCL clearly stated that it does not have such a panel, but at the first appellate stage, it compiled a list of advocates engaged across India in various courts in the past or at that time. The respondent's contention, in his complaint under Section 18 of the RTI Act, at the highest, was that the said list was incomplete. The respondent also asserted that he "*is fully confident and is aware that the public authority maintains a panel of its advocates and lawyers*". It was stated that this evidence had been produced before the FAA.

33. The only evidence produced in support of the respondent's contention that a panel was, in fact, maintained, and had been deliberately suppressed, was HPCL's letter dated 26.02.2021, issued in response to another RTI application by the respondent. The relevant observations in the said letter [with the name of the concerned counsel redacted] is as follows:

> "*With regard to the information under point no. (e) of the RTI Application as to whether [xxx] is an empaneled Advocate of the Corporation, I note that admittedly* ***you have held several litigations against the Corporation and in such circumstances, divulging details with regard to the empaneled Advocates of the Corporation would be prejudicial to the Corporation's interest.*** *Such information is being held by the Corporation in fiduciary capacity and without cogent reason being cited as to how disclosure of information is required for larger public interest, the information sought for comes under the purview of Section 8(1) (e) of Right to Information Act, 2005 and thereby cannot be shared.* "[17]

[17] Emphasis supplied.

34. I do not find any support in this communication for the respondent's categorical assertion that HPCL maintains a panel of advocates. The reference to "*whether [xxx] is an empanelled advocate of the Corporation*" is in the context of the query raised by the respondent. HPCL declined to divulge any detail with regard to its "*empaneled advocates*", in view of pending litigation between the parties. It is contended on behalf of the respondent that the use of the words "*empaneled advocates*" indicates that there was such a panel. I am unable to accept this contention, based merely on the refusal of HPCL to supply any information with regard to the subject. HPCL's repeated categorical assertions in the present writ proceedings, are also to the contrary.

35. Paying heed to the note of caution sounded by the Supreme Court in *Aditya Bandopadhyay*, and by this Court in *Shishir Chand*, it may be observed that the RTI Act is intended to foster transparency in government functions by supplying information available with public authorities to the citizens. It is not intended to require public authorities to go further, and provide information which they do not maintain. Viewed from this perspective, the jurisdiction of CIC under Section 20 (1) of the RTI Act can only arise if the PIO has denied a request for information or knowingly given incorrect, incomplete or misleading information, which was in the possession of the public authority. The respondent has sought to make out this case, which I have not found persuasive, as recorded above. CIC, however, proceeded on a completely different basis, with regard to the desirability of the practice of empanelling advocates. Its observations on this point were extraneous to the issue at hand. CIC also observed that HPCL failed to bring on record the guidelines conferring on

them "*unfettered powers for engaging lawyers without preparing panels*". However, this was not the information sought by the respondent, and HPCL was not required to bring such information on record. Whatever the views of CIC on the policy of HPCL in this regard, the only question before it was whether "*information*", as defined in Section 2(f) of the RTI Act has been denied *mala fide,* or incorrect, incomplete or misleading information has been knowingly furnished. The impugned order does not so indicate, but instead expresses policy prescriptions, which are beyond the remit of CIC.

36. Reference in this connection may also be made to an order of a coordinate Bench in *Union of India vs. Ram Gopal Dixit*[18]*,* which concerns the following observations of CIC with regard to utilisation of funds under the Members of Parliament Local Area Development Scheme:

> "*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*

[18] W.P.(C) 5252/2020, decided on 15.05.2024.

> *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.*"

This Court disposed of the Union of India's writ petition against this order with the following observations:

> "*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.*"

37. Dr. Chand, on the other hand, cited the judgment of the Supreme Court in *Namit Sharma 1*, dated 13.09.2012 in W.P.(C) 210/2004, and reported as (2013) 1 SCC 745. However, it is not necessary to address the said submission, as the judgment was recalled in its entirety by the Supreme Court in exercise of its review jurisdiction in *Namit Sharma 2*, and the writ petition was disposed of by an entirely different judgment [dated 03.09.2013, in Review Petition Nos. 2309/2012 and 2675/2012, reported as (2013) 10 SCC 259], to which Dr. Chand did not refer.

38. In view of the above, the impugned order of CIC is held to be without jurisdiction and is set aside. No further proceedings before CIC are required, as the respondent did not assail the first appellate order dated 04.02.2022, by way of an appeal under Section 19 of the RTI Act, but only filed a complaint under Section 18(1) of the RTI Act, which I have held to have been erroneously entertained by CIC.

E. CONCLUSION:

39. For the aforesaid reasons, the writ petition is allowed, and the impugned order of CIC dated 27.09.2022 is set aside. No further proceedings will be taken pursuant to the show cause notices issued thereunder.

40. All pending applications are disposed of.[19]

PRATEEK JALAN, J

JULY 1, 2025/*UK/Ainesh/*

[19] With regard to pending applications filed by the respondent, it was recorded in the order dated 22.05.2025 as follows:

> *"2.Dr. Puran Chand, learned counsel for the respondent, states upon instructions from the respondent, who is present in Court, that if the writ petition itself is decided, none of the other pending applications will survive."*