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

+ W.P.(C) 4761/2016 & CM Appls. 19862-19864/2016

UNION OF INDIA

..... Petitioner

Through: Mr. Mukesh Kr. Tiwari, Adv. for Mr.
Ruchir Mishra, Advs.

versus

VANSH SHARAD GUPTA

..... Respondent

Through: None

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Date of Decision : 24th May, 2016

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J (Oral)

1. Even at the pass-over stage, a second pass over is sought. Since, that is not the practice of this Court, this Court has no other option but to proceed ahead with the matter.

2. It is pertinent to mention that the present writ petition has been filed challenging the order dated 04th November, 2015 whereby the Central Information Commission (for short 'CIC') has directed the petitioner to upload all the latest amended bare Acts and to examine the functionality of its e-mail ID and develop an appropriate RTI filing mechanism. The CIC has also directed the petitioner to pay Rs.10,000/- under Section 19(8)(b) of the RTI Act to the library of

National Law School of India University, Bangaluru. The relevant portion of the impugned order is reproduced hereinbelow:-

"6. Needless to say that a duty upon the state to inform citizens about the Law as and when it was made and the citizens also have right to know of the Law. If it is impossible for any Government to expect obedience to their Law without informing the people in legible form. It is more difficult especially when the text of Law is not available in easy accessible format. It will result in two major problems, (1) People will be kept in dark about their Laws, (2) Private Publishers will exploit this in-access to Law to make money by publishing updating Acts as their copyrighted work. It is surprising that the Ministry has not used the Information technology to provide access to text of law.

7. The law and enactments are in public domain and none can claim copyright in the law. Apart from this general right to know, RTI Act has offered a specific and enforceable right to information. Section 4 mandates the Ministry of Law to place the texts of enactments. It is the duty of Legislative Department to provide information about access of every updated enactment. It is not just an recommended obligation under Section 4(1)(a) of RTI Act, but a constitutional mandate, a legal necessity, and an essential requirement for peace. It is not possible to imagine 'enactment' becoming secret because of this ambiguity and non-legibility.

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9. The Commission records its appreciation for Mr. Vansh Sharad Gupta. Although he filed his RTI application in 2012 when he was a 2nd year student, his complaint has reached this Commission for hearing

10.9.2015. Even though the information sought by him will be irrelevant due to delay, the issue raised by him is significant not only for law students like him but also for common citizens. Needless to say that in the absence of access to law there would be no access to justice.

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11. It is the minimum responsibility of state to provide updated information about amendments, which will go in long way in helping people. The access to law is not just a requirement of Law student and law researchers, but a necessity of all citizens. For instance, the Parliament by the Criminal Law (Amendment) Act, 2013, has amended section 100 of Indian Penal Code, which provide a right of private defence of body even to the extent of causing death in case of acid attack. Many men or women are not even aware of self defence right that they can even kill assailant if the later is attacking to kill, rape or throw acid, or cause grievous hurt etc.

Decision:

11. The Commission directs the respondent authority, Legislative Department to inform the complainant and the Commission as to what action has been taken including details of the programme of updation, the possible date of its completion, expenditure involved, personnel employed etc. The Commission also recommends the department to recognise urgency and significance of the issue, expedite the process, allocate more fund to employ more personnel and complete the process of updation as soon as possible.

12. The Commission also directs the respondent

authority to examine the functionality of the email ID in view of the Complainant's claim that most of the email ID have failed. The Legislative Department also should have perfect RTI filing system and answer mechanism.

13. For the failures of the above, the Commission, exercising its powers under Section 19(8)(b) of RTI Act, directs the respondent public authority to pay Rs.10,000/- (Rupees Ten Thousand Only) as a token compensation to the library of the National Law School of India University, Bangaluru, for causing loss of time of several law students, more specifically of the appellant, not providing easy access to email, or not making email ids easily available, delaying the information etc, within one month."

3. In the present writ petition, it has been averred that the respondent never filed an RTI application in the prescribed form and the requisite fee. It is also stated that the respondent did not file the first appeal and hence the second appeal could not have been entertained by the CIC.

4. This Court is not an appellate Court of the CIC. Technical and procedural arguments cannot be allowed to come in the way of substantial justice. The directions given by the CIC in the impugned order are not only fair and reasonable but also promote the concept of rule of law. It is unfortunate that the petitioner did not take the initiative on its own to upload the latest amended bare Acts.

5. Public can be expected to follow the law only if law is easily accessible 'at the click of a button'. In fact, as rightly pointed out by the CIC, the RTI Act itself mandates the Government to place the

texts of enactments in public domain.

6. This Court also take judicial notice of the fact that in challenging the imposition of costs of Rs.10,000/-, the Government of India would have spent more money in filing the present writ petition. Consequently, this Court is of the view that the costs of Rs.10,000/- which was directed to be paid by the CIC, should be recovered from the salary of the Government officials who authorized the filing of the present writ petition.

7. With the aforesaid observations and direction, the present writ petition stand disposed of.

MANMOHAN, J

MAY 24, 2016
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