

2022 LiveLaw (Del) 250

IN THE HIGH COURT OF DELHI AT NEW DELHI

CORAM: HON'BLE MR. JUSTICE YASHWANT VARMA

W.P.(C) 4129/2022 & CM APPL. 12346/2022; 30 March 2022

ANJALI BHARDWAJ *versus* CPIO, SUPREME COURT OF INDIA

Summary: The High Court has dismissed a plea challenging an order of Central Information Commission (CIC) denying information sought regarding the decisions taken by the Supreme Court Collegium in a meeting held on December 12, 2018. The disclosures made by the respondents seemed to indicate that no resolution with respect to the agenda items was drawn by members who constituted the Collegium on 12 December 2018. There was no ground to doubt the disclosure made that no resolution was drawn and that no cogent material was placed on the record which convinced the Court to take a contrary view.

Petitioner Through: Mr. Prashant Bhushan and Mr. Rahul Gupta, Advs.

J U D G M E N T

1. The writ petitioner has challenged the order of 16 December 2021 passed by the Central Information Commission on a second appeal which was preferred. The appeal itself was directed against a response which was proffered by the competent authority for the petitioner being provided the minutes and the resolution of the meeting of the Collegium of the Hon'ble Supreme Court stated to have been held on 12 December 2018. The respondents have apprised the petitioner that although certain decisions were taken by the Hon'ble Members of the Collegium on 12 December 2018, however, since required consultation could not be completed, the agenda items of the aforesaid meeting were taken up for discussion again by the Collegium on 5/6 January 2019 when it resolved for the proposals being considered afresh in light of the additional material that had become available. In light of the aforesaid disclosures that were made, the Chief Information Commissioner held that in the absence of any resolution being passed in the meeting held on 12 December 2018, the petitioner has been correctly advised that in the absence of available information, no disclosure can possible be made.

2. Assailing the aforesaid decisions, Mr. Bhushan, learned counsel appearing for the petitioner, would contend that undisputedly the Collegium of the Hon'ble Supreme Court had on 03 October 2017, unequivocally resolved that all decisions henceforth taken shall be posted on the website of the Court. Emphasis is laid on the fact that the aforesaid decision was taken to ensure transparency, maintain confidentiality and inspire confidence in the collegium system. Mr. Bhushan would contend that the disclosures made by the respondents clearly refer to certain "decisions" stated to have been taken by the Collegium on 12 December 2018. According to Mr. Bhushan, that in itself, would warrant disclosure of requisite information to the petitioner.

3. The attention of the Court is drawn to the fact that by the time the Collegium reconvened on 10 January 2019, one of the Hon'ble members who had attended the meeting of 12 December 2018, had demitted office. It is contended that the newspaper reports have referred to certain statements attributed to have been made by one of the

said Hon'ble member of the Collegium who is reported to have stated that certain decisions were, in fact, taken and had expressed disappointment that the same had not been uploaded. It is in the aforesaid backdrop that Mr. Bhushan submits that the decision impugned is liable to be quashed and set aside.

4. It becomes relevant to note that the decision of 03 October 2017 taken by the Collegium when read holistically indubitably refers to the requirement of all decisions taken by it to be published on the website of the Supreme Court. The collegium, undisputedly, is a multi-member body whose decisions stand embodied in resolutions that may be ultimately drawn and signed. The disclosures made by the respondents when read carefully seem to indicate that no resolution with respect to the agenda items was drawn by members who constituted the Collegium on 12 December 2018. It becomes pertinent to observe that a "decision" taken by the collegium would necessarily have to be embodied in a "resolution" which is ultimately framed and signed by the Hon'ble members of that collective body. That resolution alone would represent the collective decision taken or the majoritarian view which prevailed and was adopted.

5. It would appear that since the issues which arose for discussion remained unresolved or at least in an inchoate state, no formal resolution came to be drawn up. Those very agenda items were again taken up for consideration on 10 January 2019. The resolution of the Collegium of 10 January 2019 specifically records that although certain decisions were taken, since consultation could not be completed and the winter vacation of the Court intervened, the agenda items of 12 December 2018 were again deliberated upon by the Collegium on 5/6 January 2019 when it was decided that it would be appropriate that the proposals be re-evaluated in light of the additional material that had become available.

6. The Court finds no ground to doubt the disclosure made that no resolution was drawn. At least no cogent material has been placed on the record which may convince the Court to take a contrary view.

7. From the aforesaid recitals of facts, it is manifest that, in the absence of any formal resolution coming to be adopted and signed by the Hon'ble members of the Collegium on 12 December 2018, the respondents have rightly taken the position that there was absence of material that was liable to be disclosed.

8. The submissions addressed in the backdrop of certain newspaper reports are noticed only to be rejected since it is well settled that such reports are of no evidentiary value and Courts would be clearly transgressing their well settled limitations if cognizance were to be taken of such unsubstantiated and unverified reports.

9. Accordingly, and for all the aforesaid reasons, the writ petition along with pending application fails and shall stand dismissed.