



\$~13

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

+ **W.P.(C) 17602/2024**

NEERAJ SHARMA

.....Petitioner

Through: Mr. Prashant Bhushan, Ms. Ria
Yadav, Advocates

versus

**PIO MINISTRY OF HOME AFFAIRS JKL DIV AYODHYA
SECTION AND ANR.**

.....Respondents

Through: Mr. Chetan Sharma, ASG with Mr.
Nishant Gautam, CGSC, Mr. Amit
Gupta, SPC and Mr. Sandeep Singh,
Mr. Akhil Gupta, Mr. Amit Kr. Singh,
Mr. Manan Soni, Mr. Udit, Mr.
Vikramaditya Singh, Mr. Varahaman
Kaushik, Mr. Vinay Kaushik, Ms.
Akriti Mehrish, Advocates for UOI
and Mr. Anubhav Tyagi, GP
Ms. Manisha Agrawal Narain, CGSC
with Mr. Chandan Deep Singh, Mr.
Sandeep Singh Somaria and Mr.
Akhil Gupta, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **20.12.2024**

CM APPL. 74891/2024 (Exemption)

1. Exemption is granted, subject to all just exceptions.
2. The Applicant shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

W.P.(C) 17602/2024

W.P.(C) 17602/2024

Page 1 of 5



4. The Petitioner had filed an RTI application dated 19th January, 2021 with the Public Information Officer¹, Ministry of Home Affairs², Government of India, under Section 6 of the Right to Information Act, 2005, seeking the details of the Central Public Information Officer³ and the First Appellate Authority appointed for the Trust named “Shri Ram Janmbhoomi Teerth Kshetra”.

5. In response to the said application, the MHA *vide* communication dated 28th January, 2021, informed the Petitioner of the CPIO of the Ayodhya Section of JKL Division of MHA. Further, the Petitioner was informed that the said Trust was constituted by the Central Government, in compliance with the directions of the Supreme Court in the judgment dated 9th November, 2019 titled ***M. Siddiq (Ram Janmabhumi Temple-5 J.) v. Suresh Das***⁴, and that the same is an autonomous organisation/body.

6. Since the aforementioned response of the Petitioner’s RTI application was not found to be satisfactory, the matter was escalated by the Petitioner, by way of filing an appeal dated 24th February, 2021, under the RTI Act before the First Appellate Authority of Joint Secretary (JKL), who on 8th March, 2021, disposed of the said appeal, observing as follows:

“4. And whereas, information sought pertaining to details of CPIO and First Appellate Authority in respect of Ayodhya Section, Ministry of Home Affairs and information pertaining to constitution of Shri Ram Janmbhoomi Teerth Kshetra Trust was provided to applicant vide this Ministry’s letter dated 28.01.2021(copy enclosed). In this connection, it may be noted that CPIO is bound to provide only that information which is available with him. It is important to note that only such information can be supplied under the Act which is available and existing and in held by the public authority or is held under the control of the public authority.

¹ “PIO”

² “MHA”

³ “CPIO”

⁴ (2020) 1 SCC 1



The Public information Officer is not supposed to create information or to do research on behalf of any citizen.”

7. Aggrieved by the aforementioned decision, the Petitioner filed a second appeal before the Central Information Commission⁵, who passed an order dated 08th July, 2022, which reads as follows:

“Upon perusal of the facts of the case, the Commission is of the considered opinion that the reply of the PIO is not in consonance with the provisions of the RTI Act because though information sought by the Applicant has not been provided to him, none of the provisions of the RTI Act has been cited for the tacit denial. Therefore, the reply sent by the PIO is found untenable in law.

Under the circumstances, the Commission directs Shri Harish Kumar Wadhwa, CPIO and Dy Secretary, Arms and NI/Ayodhya, M/s Home Affairs to re-examine the RTI application and provide a revised point wise response strictly in accordance with the provisions of the RTI Act, 2005 to the Applicant within three weeks of receipt of this order. The Respondent shall submit a compliance report in this regard alongwith necessary proof of service by 31.07.2022. It is made clear that non-compliance of these directions shall attract penal action, as per law.

The aforementioned cases are disposed off accordingly.”

8. Thereafter, MHA issued a communication dated 28th July, 2022, stating as follows:

“3. The Trust has been constituted as per directions of the Hon'ble Supreme Court given in its judgment dated 09.11.2019 in C.A. No. 10866-67 of 2010 and registered on 05.02.2020. The said Shri Ram Janmbhoomi Teerth Kshetra Trust is a body which is neither owned, controlled nor financed by Government of India; and is an independent and autonomous organization/body itself. As such, it does not fall within the definition of public authority as given in section of 2(h) of RTI Act 2005. Therefore, the RTI applications in question cannot be transferred to the trust under section 6(3) of the RTI Act, 2005.”

9. As per the aforementioned communication, the stand of the Ministry is that “Shri Ram Janmbhoomi Teerth Kshetra Trust” is not a public authority,

⁵ “CIC”



under Section 2(h) of the RTI Act.

10. In the aforementioned background, the Petitioner again invoked the jurisdiction of CIC, seeking their intervention. However, this time, CIC issued a communication dated 13th January, 2023, returning the said complaint filed by the Petitioner observing as follows:

“Subject:- Return of Second Appeal/Complaint along with all documents.

Madam/Sir,

Reference your Second Appeal/Complaint dated 12-01-2023 received on 12-01-2023 vide above Diary Number.

On Scrutiny of the above Appeal/Complaint it is found that, Appeal/Complaint relating to the same RTI has been registered earlier and decided vide file nos. CIC/MHOME/C/2021/606547, CIC/MHOME/A/2021/609248, CIC/MHOME/C/2021/612823 & CIC/MHOME/A/2021/625152. As there is no provision of review in Commission, Your Appeal/Complaint cannot be registered.

Whereas you can still file an application for non-compliance in regard to aforesaid Second Appeal/Complaint which has been already decided.

** Please use designated link for filling Link Paper/Compliance/non-compliance i.e. <https://dsscjc.nic.jn/online-link-paper-compliance/add>”*

11. In view of the foregoing, the Petitioner has invoked the jurisdiction of this Court under Article 226 and 227 of the Constitution of India, 1950, impugning the order dated 8th July, 2022 passed by CIC in second appeal under the RTI Act, as well as the communication dated 28th July, 2022 issued by the MHA.

12. After hearing Mr. Prashant Bhushan, counsel for the Petitioner and Mr. Chetan Sharma, ASG for Respondents, it emerges that the question raised in the present case, as to whether the trust in question can be considered as a public authority or not, has not been adjudicated by the CIC.

13. In these circumstances, in the opinion of the Court, this question



should be first deliberated before the CIC.

14. Accordingly, the following directions are issued:

(a) The CIC shall consider and decide the question as to whether the Trust named “Shri Ram Janmbhoomi Teerth Kshetra” is a public authority under Section 2(h) of the RTI Act, 2005.

(b) The aforementioned decision shall be rendered by the CIC, after affording opportunity of hearing to both the Petitioner as well as Respondents No. 1 and 2 as expeditiously as possible.

15. All rights and contentions of the parties are left open. It is made clear that the Court has not expressed any opinion on the questions raised. Needless to state, parties shall be at liberty to assail the decision of the CIC, if the need so arises, in accordance with law.

16. With the above directions, the present writ petition is disposed of.

SANJEEV NARULA, J

DECEMBER 20, 2024/ab