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

\+ LPA 689/2016

TAPAN CHOUDHURY

..... Appellant

Through: Appellant in person

versus

CENTRAL INFORMATION COMMISSION AND ORS

..... Respondent

Through: Ms. Anu Bagai, Adv for R-2&3

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE VINOD GOEL

O R D E R

% 25.05.2017

The appellant has preferred the present appeal to assail the judgment dated 30.09.2016 passed in W.P. (C.) No. 8917/2016. The appellant had made an application under the RTI Act to seek the shorthand notebook of the stenographer of one of the learned Judges of this court of a particular date and in respect of a particular case. The application was replied to by the CPIO on 15.10.2014 stating that no such record is being maintained and thus information could not be furnished.

The appellant's first appeal was dismissed by the appellate authority on 29.11.2014. The CIC, by placing reliance on the Full Bench decision of this court in ***Secretary General, Supreme Court of India v. Subhash***

Chandra Agarwal, AIR 2010 Del 159, declined to interfere with the order passed by the appellate authority.

Consequently, the appellant preferred the aforesaid writ petition to assail the said order passed by the CIC.

The learned Single Judge has dismissed the writ petition by holding as under:

> "*5. The full bench of this Court in Subhash Chandra Agarwal (Supra) has hold that even draft judgments signed and exchanged are not to be considered as final judgment but only a tentative view liable to be changed. It has been held that draft judgment cannot be said to be information held by a public authority. The full bench held, that the apprehension of the learned Attorney General, that notes or jottings by the Judges or their draft judgments would fall within the purview of Right to Information Act, is misplaced. Notes taken by Judges while hearing a case, it was held, cannot be treated as final views expressed by them on the case and are meant only for the use of the Judges and cannot be held to be a part of a record 'held' by the public authority.*
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> *6. In the present case, the petitioner is seeking copies of the shorthand note books in which the Stenographer takes dictation of the Court. First of all, shorthand note books, as reported by the CPIO, are not retained and secondly the shorthand note book cannot be equated with a judgment or an order, which forms part of the judicial record. Shorthand notebook can at best be treated as a memo of what is dictated to a steno to be later transcribed into a draft judgment or an order. When draft judgments and order do not form part of a 'record' held by a public authority, a shorthand note book which is memo of what is dictated and which would later be typed to become a draft judgment or an order can certainly not be held to be 'record' held by a public authority.*

The appellant, who appears in person and is a practicing advocate,

submits that in the impugned judgment, the learned Single Judge has observed that the shorthand notebook can at best be treated as "memo" of what is dictated to a steno to be later transcripted into a draft judgment or order. He submits that under the RTI, a "memo" is information.

We do not find any merit in this submission of the appellant. It is the signed order passed by a court which constitutes information, and is maintained as a record. What is taken down by the stenographer on the dictation of a learned Judge, is mechanically typed on the typewriter/ computer, to generate the order/ judgment in a draft form. Only after the same is perused and appropriately corrected – and possibly improved upon, the same is regenerated and then signed by the learned Judge. It is that order or judgment which is information and forms part of the record. The book of the stenographer in which he takes dictation in shorthand is not an information which is required to be maintained as a part of the record by this court.

The Full Bench in ***Subhash Chandra Agarwal*** (supra) held as follows:

> "*62. The apprehension of the learned Attorney General that unless a restrictive meaning is given to Section 2(j), the notes or jottings by the Judges or their draft judgments would fall within the purview of the Information Act is misplaced. Notes taken by the Judges while hearing a case cannot be treated as final views expressed by them on the case. They are meant only for the use of the Judges and cannot be held to be a part of a record "held" by the public authority. However, if the Judge turns in notes along with the rest of his files to be maintained as a part of the record, the same may be disclosed. It would be thus retained by the registry. Insofar as draft judgments are concerned it has been explained by Justice Vivian Bose in Surendra Singh v. State of UP AIR 1954 SC 194:*

> *"Judges may, and often do, discuss the matter among themselves and reach a tentative conclusion. That is not their judgment. They may write and exchange drafts. Those are not the judgments either, however heavily and often they may have been signed. The final operative act is that which is formally declared in open court with the intention of making it the operative decision of the Court. That is what constitutes the judgment"..."*

The above observations though made in a different context, highlight the status of the proceedings that take place before the actual delivery of the judgment. Even the draft judgment signed and exchanged is not to be considered as final judgment but only tentative view liable to be changed. A draft judgment therefore, obviously cannot be said to be information held by a public authority".

In view of the above, we do not find any merit in this appeal.

Dismissed.

VIPIN SANGHI, J

VINOD GOEL, J

MAY 25, 2017
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