NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Petition for Special Leave to Appeal (C) No. 21019 of 2022

Anjali Bhardwaj ...Appellant(S)

Versus

CPIO, Supreme Court of India, (RTI Cell) ...Respondent(S)

O R D E R

M. R. Shah, J.

1. Feeling aggrieved and dissatisfied with impugned judgment and order dated 27.07.2022 passed by the High Court of Delhi at New Delhi in Letters Patent Appeal (LPA) No. 442/2022, by which, the Division Bench of the High Court has dismissed the said LPA and has confirmed the judgment and order passed by the learned Single Judge in Writ Petition (C) No. 4129/2022, the original writ petitioner – original applicant has preferred the present petition for Special Leave to Appeal.

2. The facts leading to the present petition for Special Leave to Appeal in a nutshell are as under: -

2.1 That the petitioner herein preferred an RTI application before the Central Public Information Officer (CPIO), Supreme Court of India. The petitioner sought the following information: -

(i) Please provide a copy of the agenda of the meeting of the Collegium of the Supreme Court held on December 12, 2018.

(ii) Kindly provide a copy of the decisions taken on the meeting of the Collegium of the Supreme Court held on December 12, 2018.

(iii) Kindly provide a copy of the resolutions of the Collegium meeting held on December 12, 2018.

2.2 Vide communication dated 11.03.2019 the prayer of the petitioner came to be turned down. That thereafter the petitioner preferred the first appeal before the First Appellate Authority under the RTI Act, 2005 being Appeal No. 75/2019. The First Appellate Authority rejected the said appeal by observing that as such there was no final decision(s) taken in the Collegium meeting held on

12.12.2018 and there was no final decision which culminated into the resolution and therefore, in absence of such resolution the information need not be supplied. The appellant preferred second appeal which also came to be dismissed. The learned Single Judge also dismissed Writ Petition No. 4129/2022 by reiterating that in the Collegium meeting held on 12.12.2018 there was no final decision taken and even as observed in the subsequent resolution meeting held on 10.01.2019, it was so stated that the then Collegium on 12.12.2018 took certain decisions, however, the required consultation could not be undertaken and completed. Therefore, the learned Single Judge was of the opinion that as there was no formal resolution came to be drawn up, there is no question of providing any decision taken in the meeting held on 12.12.2018. The order passed by the learned Single Judge dismissing the writ petition has been confirmed by the Division Bench of the High Court by the impugned judgment and order. Feeling aggrieved and dissatisfied with the impugned judgment and order, the petitioner preferred the present petition.

3. Shri Prashant Bhushan, learned counsel appearing on behalf of the petitioner has vehemently submitted that in fact certain decisions were taken by the Collegium in the meeting held on 12.12.2018 and therefore, the decisions which were taken, were required to be uploaded in the public domain and the decisions which were taken by the Collegium in the meeting held on 12.12.2018 were required to be informed and the particulars of which are required to be given under the RTI Act.

3.1 Shri Prashant Bhushan, learned counsel appearing on behalf of the petitioner has heavily relied upon one article published on the website of the Bar and Bench wherein it was mentioned that one of the members of the Collegium stated that he was disappointed that decision taken in the meeting on 12.12.2018 was not uploaded on Supreme Court's website. It is submitted that as per the information disclosed in the Press by one of the members of the Collegium, who was part of the meeting dated 12.12.2018, it was specifically stated that certain decisions were taken,

however, in the subsequent meeting of the Collegium on 10.01.2019 earlier decisions were changed. Shri Prashant Bhushan, learned counsel appearing on behalf of the petitioner has submitted that therefore, it may not be accepted that no decision(s) was/were taken in the Collegium meeting held on 12.12.2018. It is submitted that everybody has a right to know the decision(s) taken by the Collegium even as per the earlier Resolution of the Supreme Court dated 03.10.2017, by which, it was resolved that the decision(s) taken by the Collegium shall be uploaded on the Supreme Court's website.

4. We have heard Shri Prashant Bhushan, learned counsel appearing on behalf of the petitioner at length.

5. At the outset, it is required to be noted that the petitioner asked for the information on the decision(s) taken by the Collegium in its meeting held on 12.12.2018. Reliance is placed upon the Resolution dated 03.10.2017, by which, it was resolved to upload the decision/resolution of the Collegium on Supreme Court's website. Relying upon some article published in the media and the interview given by

one of the members of the Collegium who was part of the Collegium held on 12.12.2018, it is asserted by the petitioner that in fact some decision(s) were taken by the Collegium on the elevation of two Chief Justices of the High Courts to the Supreme Court. However, from the subsequent Resolution passed by the Collegium on 10.01.2019, it appears that as such no final decision was taken on the elevation to the Supreme Court. Some discussions might have taken place. But unless and until, a final decision is taken after due consultation and on the basis of such a final decision a final resolution is drawn, whatever discussions had taken place cannot be said to be a final decision of the Collegium. The actual resolution passed by the Collegium only can be said to be a final decision of the Collegium and till then at the most, it can be said to be a tentative decision during the consultation. It is to be noted that a final decision is taken by the Collegium only after due consultation. During the consultation if some discussion takes place but no final decision is taken and no resolution is drawn, it cannot be said that any final decision is taken by the Collegium.

Collegium is a multi-member body whose decision embodied in the resolution that may be formally drawn up and signed. When in the subsequent Resolution dated 10.01.2019, it is specifically mentioned that in the earlier meeting held on 12.12.2018 though some decisions were taken but ultimately the consultation was not completed and concluded and therefore, the matter/agenda items was/were adjourned. Therefore, as no final decision was taken which was culminated into a final resolution drawn and signed by all the members of the Collegium, the same was not required to be disclosed in the public domain and that too under the RTI Act. Whatever is discussed shall not be in the public domain. As per the Resolution dated 03.10.2017 only the final resolution and the final decision is required to be uploaded on the Supreme Court's website.

5.1 Now so far as the reliance placed upon some of the news item/article published in the media in which views of one of the members of the Collegium is noted, is concerned, we do not want to comment upon the same. The subsequent

Resolution dated 10.01.2019 is very clear in which it is specifically stated that in the earlier meeting held on 12.12.2018, the process for consultation was not over and remained un-concluded. At the cost of repetition, it is observed that after due deliberation and discussion and after completing the consultative process, when a final decision is taken and thereafter, the resolution is drawn and signed by the members of the Collegium can be said to be a final decision and till then it remains the tentative decision. Only after the final resolution is drawn and signed by the members of the Collegium, which is always after completing the due procedure and the process of discussion/deliberations and consultation, the same required to be published on the Supreme Court website as per Resolution dated 03.10.2017.

5.2 In view of the above and for the reasons stated above, no reliance can be placed on the news report and/or some article in the media. What is required to be seen is the final resolution which is ultimately drawn and signed by the members of the Collegium.

6. In view of the above and for the reasons stated above, there is no substance in the present Special Leave to Appeal and the same deserves to be dismissed and is accordingly dismissed.

……J.
(M. R. SHAH)

……J.
(C.T. RAVIKUMAR)

NEW DELHI,
DECEMBER 09, 2022.