

Court No. - 3

Case :- WRIT - C No. - 8745 of 2023

Petitioner :- Om Prakash Tripathi

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. Secondary Education And 5 Others

Counsel for Petitioner :- Ankit Gupta

Counsel for Respondent :- C.S.C., Shikhar Anand

Hon'ble Vivek Chaudhary, J.

Hon'ble Manish Kumar, J.

Heard learned counsel for the petitioner and Sri Shikhar Anand, learned counsel for the respondent no. 2 and learned Standing Counsel for the respondents/State.

Main grievance of the petitioner is with regard to the orders dated 27.09.2022, 23.01.2023 and 31.07.2023, whereby a penalty of Rs. 25,000/- is imposed upon the petitioner.

Counsel for the petitioner makes reference to clause (1) of Section 20 of the Right to Information Act, 2005, which reads as under:-

"20. Penalties.-(1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such

penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be."

A bare perusal of first proviso to Section 20 shows that no penalty can be imposed against a person without giving a person a reasonable opportunity of hearing. Admittedly, in the present case, after finding that information was not given in time, the appellate authority has proceeded to impose penalty to the petitioner without giving petitioner any opportunity of hearing.

Counsel for the petitioner submits that the same is in violation of proviso to Section 20 of the Right to Information Act.

Sri Shikhar Anand, learned counsel for the appellate authority could not show from the record that any opportunity of hearing was given to the petitioner before passing the order of penalty.

Therefore, the order dated 27.09.2022 to the extent that the same imposes penalty upon the petitioner is set aside.

Writ petition is accordingly **allowed**.

(Manish Kumar, J.) (Vivek Chaudhary, J.)

Order Date :- 10.10.2023
Arjun/-