

GAHC010201542024



THE GAUHATI HIGH COURT

[THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH]

WRIT PETITION [C] NO. 5132/2024

Sri Sonadhan Chakma, aged 31 years, Son
of Sri Lidumoni Chakma, Resident of
Langsoliet Purana Bazar, Post Office –
Langoliet, Police Station – Borlongfer,
District – Karbi Anglong, Assam, Pin –
782447.

.....Petitioner

-VERSUS-

1. The State of Assam, represented by the
Secretary to the Government of Assam,

Ministry of Environment and Forest,
Dispur, Guwahati - 6

2. The Registrar, Second Appellate Authority, Assam Information Commission, Shilpgram Road, Panjabari, Guwahati – 37.
3. The First Appellate Authority, Karbi Anglong Autonomous District Council, Diphu, District – Karbi Anglong, Assam, Pin – 782460.
4. The Public Information Officer, Karbi Anglong Autonomous District Council, Diphu, District – Karbi Anglong, Assam, Pin – 782460.

.....Respondents

Advocates :

Petitioner	: Mr. B.K. Sen, Advocate.
Respondent no. 2	: Mr. D. Deka, Standing Counsel, Assam Information Commission.
Respondent nos. 3 & 4	: Mr. J. Chutia, Standing Counsel, Karbi Anglong Autonomous Council
Date of Hearing	: 12.11.2024
Date of Judgment & Order	: 12.11.2024

BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY

JUDGMENT & ORDER

1. The petitioner has approached this Court invoking the extra ordinary and discretionary jurisdiction of this Court under Article 226 of the Constitution of India contending inaction on the part of the Assam Information Commission ['the Commission', for short] in the matter of taking cognizance of a Complaint, stated to have been filed by the petitioner before it on 21.05.2024.
2. The petitioner has claimed that he belongs to Chakma tribe, which has been recognized as a Scheduled Tribe in the district of Karbi Anglong, Assam under the Constitution [Scheduled Tribes] Order, 1950 made in exercise of the powers conferred by Clause [1] of Article 342 of the Constitution of India. To substantiate such fact, the petitioner has annexed a Tribe Certificate issued in his favour by the Office of the Deputy Commissioner, Karbi Anglong on 13.12.2017 as Annexure-1 to the writ petition.
- 2.1. The petitioner has stated that in order to obtain information as regards allotment of forest lands under the provisions of the Land Policy framed by the Government of Assam and the Scheduled Tribes & Other Traditional Forest Dwellers [Recognition of Forest Rights] Act, 2006 ['the Act, 2006', for short], he submitted an application on 22.12.2021 before the Chief Executive Member, Karbi Anglong Autonomous Council [KAAC], Diphu seeking certain information. When the said application was not responded to, the petitioner submitted another application on 16.02.2022, as a reminder to the earlier one, before the same authority but the said application too was not responded.

2.2. Thereafter, the petitioner submitted an application under Section 6 of the Right to Information Act, 2005 [‘the RTI Act’, for short] before the State Public Information Officer [SPIO], Karbi Anglong Autonomous Council, Diphu on 06.10.2022 seeking the following information :-

1. When did said petitions received in the office of the Chief Executive Member, Karbi Anglong Autonomous Council, Diphu, Karbi Anglong? What were its diary numbers?
2. When did said petitions placed in files before the Hon'ble Chief Executive Member, Karbi Anglong Autonomous Council, or in the meeting of the Executive Council of the Karbi Anglong Autonomous Council, for appropriate action regarding prayer requested in the said petitions?
3. Supply clear photocopy of records of file noting, comment, note given in the process of examination of said petitions for appropriate action.
4. Were the said petitions referred or transferred to any other Departments, Branch, Public Authority for appropriate action? If yes, supply clear photocopy of the forwarding letters sent to any other Departments, Branch, Public Authority.
5. Any response, action taken report received in the office of the Chief Executive Member, Karbi Anglong Autonomous Council, Karbi Anglong from any other Departments, Branch, Public Authority for appropriate action following the said petitions? If yes, supply clear photocopy of the response, action taken report received from any other Departments, Branch, Public Authority.
6. Supply clear photocopy of record of orders issued by the Govt. of Assam, Govt. of India received since 2010, in the office of the Karbi Anglong Autonomous Council, regarding Allotment and Settlement of Forest land for the Scheduled Tribes [ST] villagers under the provisions of the land policy framed by the Govt. of Assam, and the Scheduled

Tribes & Others Traditional Forest Dwellers [Recognition of Forest Rights] Act, 2006.

- 2.3. In the said application, the petitioner requested for information at the earliest and further stated that if the requested information were not available in the said Office then the application was to be transferred under Section 6 [3] of the RTI Act to the concerned State Public Information Officer [SPIO] with intimation to the applicant.
- 2.4. When the petitioner had neither received the information as sought for by him under the RTI Act nor received any reply from the SPIO of the Karbi Anglong Autonomous Council, he preferred an appeal before the 1st Appellate Authority, O/o Karbi Anglong Autonomous Council, Diphu on 03.01.2023. The said appeal was duly received by the Office of the 1st Appellate Authority. When after waiting for a reply from the 1st Appellate Authority the petitioner did not receive any response, he stated to have approached the Assam Information Commission by preferring a second appeal under Section 19 [3] of the RTI Act on 24.03.2023 highlighting about the approaches he had made before the SPIO and the 1st Appellate Authority earlier.
- 2.5. On receipt of the second appeal, the Registrar, Assam Information Commission issued notice to the State Public Information Officer [SPIO], O/o Karbi Anglong Autonomous Council, Diphu seeking his presence along with all the relevant records at the hearing scheduled on 07.02.2024. It was further informed to the SPIO that the Assam Information Commission had decided to hear the matter. The SPIO was directed to submit a written statement mentioning the date of receipt of the application under the RTI Act and the date of furnishing the sought for information to the applicant, that is, the petitioner, if he had already furnished the information. The SPIO

was further informed that if the sought for information was not furnished to the applicant, then the written statement should contain the explanation as to why penalty under Section 20 of the RTI Act should not be imposed on him for his failure to furnish the sought for information within the stipulated time period. The SPIO was further informed that if the request for information was rejected under Section 7 [1], then the written statement should indicate the date of receipt of application under the RTI Act and the date of rejection by him giving reasons for such rejection.

3. After the hearing held on 07.02.2024, the Commission had passed an Order on 08.02.2024. In the hearing on 07.02.2024 before the Commission, the petitioner was represented by a Legal Aid Counsel with a Letter of Authorization of the Assam State Legal Services Authority. The SPIO, O/o the Principal Secretary, KAAC was neither present at the time of hearing nor any written statement or any petition stating reason for his absence was submitted. The Commission on tracking the postal consignment, had found that notice from the Commission was duly served upon the SPIO, O/o the Principal Secretary, KAAC, Diphu on 20.01.2024. Viewing such absence seriously, the Commission directed the SPIO to furnish reasons why necessary action should not be initiated against him for non-compliance of the direction made in the notice and such explanation should reach the Commission within ten days of receipt of the Order passed.
4. In the Order dated 08.02.2024, the Commission noted that the petitioner sought information under six nos. of heads and the information sought for pertained to allotment and settlement of forest land for the Scheduled Tribes villagers under the provisions of the Land Policy framed by the Government of Assam and the Act, 2006. At the hearing, the Legal Aid Counsel who appeared on behalf of the petitioner, submitted that no reply whatsoever in response to the application under the RTI Act was furnished

by the SPIO and in view of no response by the 1st Appellate Authority, the petitioner had no option but to prefer the second appeal.

5. The Commission, in its Order dated 08.02.2024, had further observed that the manner in which the Public Authority had acted was in disobedience of the provisions of the RTI Act. Taking note of the facts and circumstances of the case, the Commission, by its Order dated 08.02.2024, had directed the Public Authority to furnish the reply to the petitioner by registered post or e-mail within a period of twenty days of receipt of the said Order. The Commission further observed that the second appeal would be heard again on 05.03.2024 and the Superintendent of Police, Karbi Anglong was requested to ensure the physical presence of the Public Authority concerned on 05.03.2024 during the hearing of the second appeal.
6. The hearing on the second appeal which was registered as Case no. 330423 /[KAN]/4/2023, was held again on 05.03.2024. In the said hearing, the Public Authority was represented by the Principal Secretary In-Charge, KAAC accompanied by the learned Standing Counsel, KAAC. In so far as the explanation sought for by the Commission regarding absence of the SPIO during the last hearing held on 07.02.2024, the SPIO submitted an explanation to the effect that the petitioner as an applicant was found to have filed several applications under the RTI Act and the replies were given to some of those earlier applications. The SPIO further stated that the Order dated 08.02.2024 and the case under reference were not brought to their notice and the office was under the impression that the case was already heard and replied. The Commission found the explanation provided by the SPIO to be a lame one. During the hearing, the SPIO and the learned Standing Counsel, KAAC had prayed before the Commission for granting ten days' time to furnish reply to the RTI application of the petitioner. In view of such submission made by the SPIO and the learned

Standing Counsel, KAAC, the Commission had disposed of the second appeal by an Order dated 06.03.2024 with the following observations and directions :-

Accordingly the Commission directs the SPIO to furnish the information to the petitioner vide e-mail / registered post within 10 [ten] days of receipt of this order without fail.

Smti. Nandita Deka, Legal Aid Counsel representing the petitioner had submitted to the Commission to impose cost for the unreasonable delay in responding to the RTI petition as well as the notice of the Commission. On the other hand the Standing Counsel of KAAC had stated that while reply to the instant RTI petition under review will be furnished within 10 [ten] days, the lacunae in processing the RTI petition will be addressed with immediate effect.

The Commission has somehow managed to wake up the KAAC administration from deep slumber as far as the issue of responding to RTI queries are concerned. After series of efforts finally there is some appreciation of importance of semblance of respect to an Act promulgated by the Parliament of the country and in recent times there are some responses to RTI queries finally. Therefore the Commission decides not to impose cost for the time being and gives an opportunity to the SPIO to furnish an adequate reply to the petitioner within a particular time frame.

With the above observation and direction, the Commission disposes of the 2nd appeal petition dated 24-03-2023.

7. After disposal of the second appeal by the Order dated 06.03.2024, the Principal Secretary, In-Charge, KAAC had addressed a Letter dated

13.03.2024 to the petitioner purportedly furnishing the information sought for by the petitioner in his RTI application. The contents of the Letter dated 13.03.2024 read as under :-

To,
Sri Sonadhan Chakma,
Vill : Langsoliet Purana Bazar,
P.O. : Langsoliet, P.S. : Borlangpher,
Karbi Anglong.

Sub : Reg. Furnishing of Information under Section 6 [3] of the RTI Act
2005 against case No. 330423/[KAN]/4/2023.

Ref : Letter No. 330423/[kan]/4/2023/21-A, dtd. 06/06/2024.

Sir,

With reference to the subject cited above, I am to furnish the information as sought by you of quarries no. 1 to 6 are stated below :

Reply to Q No. 1 -: Received your petition on 20/04/2022 and it was forwarded to the Chief Conservator of Forest-cum-Council Head of Department [Forest], Karbi Anglong, Diphu dated 18/05/2022 for submission of his views and comment in this regard. Copy enclosed.

Reply to Q No. 2 -: Does not arise.

Reply to Q No. 3 -: Same as reply No. 1.

Reply to Q No. 4 -: Enclosed photo copy.

Reply to Q No. 5 -: Does not arise.

Reply to Q No. 6 -: Photo Copy of the Scheduled Tribes & Others Traditional Forest Dwellers [Recognition of Forest Rights] Act, 2006.

Yours faithfully,
Sd/- Principal Secretary, i/c
Karbi Anglong Autonomous Council, Diphu.

8. On receipt of the Letter dated 13.03.2024 from the Principal Secretary, In-Charge, KAAC, the petitioner approached the Commission once again by submitting a Complaint on 21.05.2024 stating *inter-alia* that he had received an e-mail on 13.03.2024 and subsequently, the information by post from the SPIO, O/o the Principal Secretary, KAAC. In his Complaint, the petitioner had alleged that though some information was supplied to him but he found the information supplied to him to be misleading and unrelated to his RTI application dated 06.10.2022. With the Complaint, the petitioner also submitted the photocopies of the information received by him on 13.03.2024 from the SPIO as Annexure-III to the said Complaint.
9. By submitting the aforesaid Complaint, the petitioner requested the Commission to take necessary action against the Principal Secretary, In-Charge, Karbi Anglong Autonomous Council and the SPIO, O/o the Principal Secretary, Karbi Anglong Autonomous Council under the RTI Act for supplying wrong and misleading information and for willful disobedience and deliberate disrespect of the Order dated 06.03.2024 of the Commission passed in the second appeal, Case no. 330423/[KAN]/4/2023.
10. The petitioner has preferred this writ petition contending that despite receipt of the Complaint dated 21.05.2024 by the Commission on 31.05.2024, there was no consideration on the Complaint and hence, the writ petition under Article 226 of the Constitution of India.

11. Heard Mr. B.K. Sen, learned counsel for the petitioner; Mr. D. Deka, learned Standing Counsel, Assam Information Commission for the respondent no. 2; and Mr. J. Chutia, learned Standing Counsel, Karbi Anglong Autonomous Council [KAAC] for the respondent nos. 3 & 4.
12. Mr. Sen, learned counsel for the petitioner has submitted that the Commission is a statutory body under the RTI Act. In the case in hand, the Commission entertained a second appeal under Section 19 [3] of the RTI Act and thereafter, disposed of the second appeal by an Order dated 06.03.2024 directing the SPIO and the Public Authority to furnish the information to the petitioner vide e-mail / registered post without fail. Such direction came to be passed when during the hearing held before the Commission on 05.03.2024, the SPIO and the learned Standing Counsel, KAAC had made a submission before the Commission that the information under the RTI Act would be supplied to the petitioner provided they were granted ten days' time. He has further submitted that in the Complaint dated 21.05.2024, the petitioner had categorically contended that the information supplied to him by the Letter dated 13.03.2024 were misleading and unrelated to his RTI application dated 06.10.2022. In order to substantiate such contention, the petitioner had also furnished the photocopies of the information he had received on 13.03.2024 from the Public Authority. When a request has been made to take necessary action for supplying wrong and misleading information and for willful disobedience and deliberate disrespect of the direction passed in the Order dated 06.03.2024, the Commission should have treated the Complaint under Section 18 of the RTI Act and thereafter, should have proceeded to make an inquiry about the contentions made by the petitioner in his Complaint dated 21.05.2024.

13. Mr. Deka, learned Standing Counsel, Assam Information Commission has submitted that the power of the Commission under Section 18 and Section 19 of the RTI Act are distinct. The power of the Commission under Section 19 of the RTI Act is an appellate power whereas the power of the Commission under Section 18 is a supervisory one. Mr. Deka has further submitted that after a second appeal under Section 19 [3] of the RTI Act is heard and disposed of by the Commission, the Commission has no power to take cognizance of a complaint on the same subject-matter under Section 18 of the RTI Act. In support of his submissions, Mr. Deka has referred to the decisions of the Hon'ble Supreme Court of India in *Chief Information Commissioner and another vs. State of Manipur and another*, reported in [2011] 15 SCC 1; and *Kishan Chand Jain vs. Union of India and others*, reported in [2023] 14 SCR 477; 2023 INSC 915.
14. Mr. Chutia, learned Standing Counsel, KAAC appearing for the respondent nos. 3 & 4 who are the 1st Appellate Authority and SPIO respectively in the case in hand, has submitted that an application submitted by the petitioner under Section 6 of the RTI Act was forwarded to the appropriate authority under sub-section [3] of Section 6 of the RTI Act. Mr. Chutia has submitted that in *Chief Information Commissioner* [supra], it has been clearly held that Section 18 and Section 19 of the RTI Act serve two different purposes and lay down two different procedures providing two different remedies. It has been further held that one cannot be substituted for the other. He has, thus, contended that the submission of a complaint of the nature which the petitioner had filed before the Commission on 21.05.2024 is not an appropriate remedy. It is further submitted that sub-section [8] of Section 19 of the RTI Act has vested the Commission with the power to impose penalty under Section 20 of the RTI Act. He has further contended that the present writ petition is not maintainable and also, the Complaint dated 21.05.2024 submitted before the Commission is not maintainable in the

form and manner it was presented. He has further submitted that in order to impose penalty under sub-section [8] of Section 19 an inquiry is to be conducted by the Commission and it is for the said purpose, the provision of Section 18 can be applied.

15. I have given due consideration to the submissions of the learned counsel for the parties and have gone through the materials as well as the decisions referred to by the learned counsel for the respondents, besides the provisions of the RTI Act.
16. The Right to Information [RTI] Act has been enacted for setting out a regime to secure access to information under the control of public authorities and in order to promote transparency and accountability in the working of every public authority. Section 3 of the RTI Act has provided for the right to information to all the citizens, subject to the provisions contained therein. As per section 2 [j], 'right to information' means the right to information accessible under the RTI Act, which is held by or under the control of any public authority and includes the right to – [i] inspection of work, documents, records; [ii] taking notes, extracts or certified copies of documents or records; [iii] taking certified samples of material; [iv] obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.
17. 'Public authority', as per Section 2[h], means any authority or body or institution of self-government established or constituted – [a] by or under the Constitution; [b] by any other law made by Parliament; [c] by any other law made by State Legislature; [d] by notification issued or order made by the appropriate Government, and includes any-[i] body owned, controlled or substantially financed; [ii] non-Government organisation substantially

financed, directly or indirectly by funds provided by the appropriate Government. Section 3 contains a mandate that subject to the provisions of the RTI Act, *all citizens* shall have the right to information. The obligation is cast on every public authority to provide information and to maintain its records and to facilitate right to information under the RTI Act in the manner provided by Section 4. It has been made mandatory by the provisions of Section 5 to appoint Central Public Information Officers or State Public Information Officers, as the case may be, in all administrative units or offices. As per Section 6, *a person* who desires to obtain any information under the RTI Act, can make a request in writing or through electronic means accompanying such fee, as may be prescribed, specifying the particulars of the information sought by him or her before the concerned Public Information Officer. Sub-section [3] of Section 6 has provided that where an application is made to a public authority requesting for an information, - [i] which is held by another public authority; or [ii] the subject matter of which is more closely connected with the functions of another public authority, the public authority to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer, which transfer is to be made within the period specified therein.

18. After a request for information is made the primary obligation for consideration of the request is of the Public Information Officer as provided in Section 7. Such request is to be disposed of as expeditiously as possible, and in any case, within thirty days from the date of receipt of the request, either the information shall be provided or the same may be rejected for any of the reasons provided under Section 8 and Section 9. Sub-section [2] of Section 7 has prescribed that if the concerned Public Information Officer fails to give the information specified within a period of thirty days, it shall

be deemed that such request has been rejected. Sub-section [8] of Section 7 has mentioned that where a request has been rejected under sub-section [1], the Central Public Information Officer or State Public Information Officer, as the case may be, shall communicate to the person making the request, - [i] the reasons for such rejection; [ii] the period within which an appeal against such rejection may be preferred; and [iii] the particulars of the appellate authority. Section 8 and Section 9 have enumerated the grounds of exemption from disclosure of information and also the grounds for rejection of request in respect of some items of information respectively. Section 11 deals with third party information.

19. Section 12 has provided for constitution of Central Information Commission and Section 15 has provided for constitution of State Information Commissions. The statutory provisions contained in Chapter V of the RTI have provided about the powers and functions of the Information Commission and appeals and penalties.
20. As the provisions of Section 18, Section 19 and Section 20 have been referred to and are involved in the case in hand, the said provisions are quoted herein below in its entirety :-

Section 18 - Powers and functions of Information Commissions.

[1] Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,-

[a] who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed

under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section [1] of section 19 or the Central Information Commission or the State Information Commission, as the case may be;

- [b] who has been refused access to any information requested under this Act;
- [c] who has not been given a response to a request for information or access to information within the time limit specified under this Act;
- [d] who has been required to pay an amount of fee which he or she considers unreasonable;
- [e] who believes that he or she has been given incomplete, misleading or false information under this Act; and
- [f] in respect of any other matter relating to requesting or obtaining access to records under this Act.

[2] Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

[3] The Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 [5 of 1908], in respect of the following matters, namely:--

- [a] summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
- [b] requiring the discovery and inspection of documents;
- [c] receiving evidence on affidavit;
- [d] requisitioning any public record or copies thereof from any court or office;
- [e] issuing summons for examination of witnesses or documents; and
- [f] any other matter which may be prescribed.

[4] Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

Section 19 - Appeal.

[1] Any person who, does not receive a decision within the time specified in sub-section [1] or clause [a] of sub-section [3] of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer, as the case may be, in each public authority :

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

[2] Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

[3] A second appeal against the decision under sub-section [1] shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission :

Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

[4] If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.

[5] In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.

[6] An appeal under sub-section [1] or sub-section [2] shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

[7] The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.

[8] In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to —

[a] require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—

[i] by providing access to information, if so requested, in a particular form;

[ii] by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;

[iii] by publishing certain information or categories of information;

[iv] by making necessary changes to its practices in relation to the maintenance, management and destruction of records;

[v] by enhancing the provision of training on the right to information for its officials;

[vi] by providing it with an annual report in compliance with clause [b] of sub-section [1] of section 4;

[b] require the public authority to compensate the complainant for any loss or other detriment suffered;

[c] impose any of the penalties provided under this Act;

[d] reject the application.

[9] The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

[10] The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

Section 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.

[2] 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 and persistently, failed 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 recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.

21. In *Chief Information Commissioner* [supra], the events in the backgrounds can be noticed, at first, which were as follows :- the applicant therein filed an application on 09.02.2007 under Section 6 for obtaining information from the SPIO relating to magisterial enquiries initiated by the Government of Manipur from 1980 - 2006. As the application under Section 6 received no response, the applicant filed a complaint under Section 18 of the RTI Act before the State Chief Information Commissioner, who by an Order dated 30.05.2007 directed the Public Authority to furnish the information within fifteen days. The same applicant filed another application on 19.05.2007 for obtaining similar information for the period between 1980 - March, 2007. As no response was received on that occasion also, the applicant filed a complaint again under Section 18 before the State Chief Information Commissioner and the same was disposed of by an Order dated 14.08.2007 directing disclosure of the information sought for within fifteen days. Both these Orders of the State Chief Information Commissioner were

challenged by two writ petitions. Both the writ petitions were heard together and were dismissed by a learned Single Judge by a common Order dated 16.11.2007 *inter alia* upholding the Orders of the State Chief Information Commissioner. Two writ appeals came to be filed against it and the Division Bench disposed of the writ appeals by an Order dated 29.07.2010. In the said Order, the Division Bench held that under Section 18 of the Act, the State Chief Information Commissioner had no power to direct the respondent to furnish the information and further held that such a power had already been conferred under Section 19 [8] of the RTI Act on the basis of an exercise under Section 19 only. The Division Bench further came to hold that the direction to furnish information is without jurisdiction and directed the State Chief Information Commissioner to dispose of the complaints in accordance with law.

21.1. When an appeal was preferred against the Order of the Division Bench of the High Court, it was contended before the Hon'ble Supreme Court of India that under Section 18 of the Act, the Central Information Commissioner or the State Information Commissioner has no power to provide access to information which has been requested for by any person but which has been denied to him. The only order which can be passed by the Central Information Commissioner or the State Information Commissioner, as the case may be, under Section 18 is an order of penalty provided under Section 20 of the RTI Act. It has further been contended that before such an order of penalty is passed the Commissioner must be satisfied that the conduct of the Information Officer was not bona fide.

21.2. The impugned decision of the High Court whereby it was held that the Commissioner while entertaining a complaint under Section 18, has no jurisdiction to pass an order providing for access to the information, was upheld by the Hon'ble Supreme Court finding no error therein. For the

purpose of dealing with the issue the Hon'ble Supreme Court has taken note of the facts of the case and after considering the provisions of Section 18 and Section 19 including Section 19 [8], has gone on to observe, as mentioned above, that the procedures contemplated under Section 18 and Section 19 are substantially different. The Hon'ble Supreme Court has observed that if the applicant after having applied for information under Section 6 did not receive any reply thereto, it must be deemed that he has been refused the information. The Hon'ble Supreme Court has held that such a situation is covered by Section 7 and therefore, the remedy for such person who has been refused the information, is provided in Section 19. It is necessary to mention that the applicant therein after not receiving any response in his application under Section 6, had straightaway approached the State Chief Information Commissioner seeking direction under Section 18, without pursuing his remedy of first appeal and second appeal provided under Section 19 [1] and Section 19 [3] respectively of the RTI Act. It is in the light of such facts, it has been held that if the contention regarding such procedure is to be accepted then Section 19 would become unworkable and especially, Section 19 [8] would be rendered a surplusage. It has been held that Section 7 read with Section 19 has provided a complete statutory mechanism to a person who is aggrieved by refusal to receive information. It has been observed that a person who is aggrieved by refusal in receiving information can only seek redress in the manner provided in the statute, namely, by following the procedure under Section 19. It has been held that any other interpretation would be totally opposed to the fundamental canons of construction. The Hon'ble Supreme Court has gone on to observe as under :-

42. We are of the view that Sections 18 and 19 of the Act serve two different purposes and lay down two different procedures and they provide two different remedies. One cannot be a substitute for the other.

43. It may be that sometime in statute words are used by way of abundant caution. The same is not the position here. Here a completely different procedure has been enacted under Section 19. If the interpretation advanced by the learned counsel for the respondent is accepted in that case Section 19 will become unworkable and especially Section 19 [8] will be rendered a surplusage. Such an interpretation is totally opposed to the fundamental canons of construction.

21.3. The Hon'ble Supreme Court has further taken note of the direction given by the Division Bench in the penultimate paragraph in the impugned Order whereby the Division Bench had directed the Chief Information Commissioner to dispose of the complaints of the applicants in accordance with law, as expeditiously as possible. Taking note of the said direction the Hon'ble Supreme Court had directed the applicants to file appeals under Section 19 of the RTI Act in respect of two requests made by them for obtaining information vide applications - dated 09.02.2007 and dated 19.05.2007 - within a period of four weeks with the observations that if such appeals are filed following the statutory procedure by the applicants, the same should be considered on merits by the appellate authority without insisting on the period of limitation.

22. The petitioner in *Kishan Chand Jain* [supra] approached the Hon'ble Supreme Court of India under Article 32 of the Constitution of India seeking directions for the better functioning of the State Information Commissions under the Right to Information Act alleging difficulty to have access of the Commissions for persons living in remote areas, seeking virtual hearings, etc. The Hon'ble Supreme Court after taking note of the powers and functions of the Information Commissioner under Section 18 and the appellate powers under Section 19 which allow any person aggrieved by

refusal of information to seek an effective remedy has gone on to observe that the State Information Commissions exercise broad powers, including the power to conduct inquiries into complaints from any person, hear appeals and impose penalties. It has been observed that the State Information Commissions decide on matters and issues pertaining to the right to information and are required to act in a fair and just manner while following the procedure laid down in Sections 18, 19 and 20 of the RTI Act.

23. It is well settled, as also held in *Chief Information Commissioner* [supra] and *Kishan Chand Jain* [supra], that the right to information is not only a statutory right, but it is also a constitutional right. The RTI Act is based on the principle that citizens have a right to know about the functioning of every public authority and it places a duty on the public authorities to act in a responsible and transparent manner by providing information about their functioning to the citizens. It has been held that the freedom of speech and expression under Article 19[1][a] includes the right to acquire and disseminate information. The right to information has also been recognized as a facet of Article 21. In *Kishan Chand Jain* [supra], it has been held that such right to information entails a heightened burden and responsibility on the Central Information Commissioner and State Information Commissioner to ensure that individuals get access to information on matters of public concern under the provisions of the RTI Act. The Constitution Bench in *Anita Kushwaha vs. Pushap Sadan*, reported in [2016] 8 SCC 509, has held that access to justice is a facet of Article 21 of the Constitution of India.
24. Section 18 of the Act, subject to the provisions of the RTI Act, has provided that it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from *any person*. The kinds of complaints which can be received under Section 18 have been enumerated in clause [a] to clause [f] of sub-

section [1] of Section 18. For example, the Central Information Commission or the State Information Commission, as the case may be, can receive and enquire into a complaint from *any person*, who has been refused access to any information requested under the RTI Act [Section 18[1][b]]; or has not been given a response to a request for information or access to information within the time limit specified under the RTI Act [Section 18[1][c]]; or has been given incomplete, misleading or false information under the RTI Act [Section 18[1][e]].

25. Under Section 18 [3] of the RTI Act, the Central Information Commission or State Information Commission, as the case may be, while inquiring into any matter under Section 18, has been vested with the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 ['CPC', for short], in respect of the following matters, namely :- [a] summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things; [b] requiring the discovery and inspection of documents; [c] receiving evidence on affidavit; [d] requisitioning any public record or copies thereof from any court or office; [e] issuing summons for examination of witnesses or documents; and [f] any other matter which may be prescribed.
26. The matters relating to discovery and inspection of documents; summoning and attendance of the witnesses are laid down in Section 30, Section 31 and Section 32 of the CPC, which read as under :-

Section 30. Power to order discovery and the like. - Subject to such conditions and limitations as may be prescribed, the Court may, at any time, either of its own motion or on the application of any party, —

[a] make such orders as may be necessary or reasonable in all matters relating to the delivery and answering of interrogatories, the admission of documents and facts, and the discovery, inspection, production, impounding and return of documents or other material objects producible as evidence;

[b] issue summonses to persons whose attendance is required either to give evidence or to produce documents or such other objects as aforesaid;

[c] order any fact to be proved by affidavit.

Section 31. Summons to witness. - The provisions in Sections 27, 28 and 29 shall apply to summonses to give evidence or to produce documents or other material objects.

Section 32. Penalty for default.- The Court may compel the attendance of any person to whom a summons has been issued under Section 30 and for that purpose may

[a] issue a warrant for his arrest;

[b] attach and sell his property;

[c] impose a fine upon him [not exceeding five thousand rupees];

[d] order him to furnish security for his appearance and in default commit him to the civil prison.

27. The procedure for issuance and service of summons are laid down in Order V, CPC. The procedure for summoning and attendance of witnesses to give evidence is set forth in Order XVI, CPC. Order XVI, CPC also contains provisions for summoning of witnesses to produce documents. For the sake of brevity, the said provisions are not quoted herein. By Section 32, CPC, a power has been vested to compel the attendance of any person by issuing a warrant of arrest; imposing a fine; attaching property; etc. By virtue of sub-

section [3] of Section 18, such provisions have been made applicable to an inquiry to be undertaken under sub-section [1] of Section 18 by the Central Information Commission or the State Information Commission, as the case may be.

28. Sub-section [4] of Section 18 of the RTI Act is with a non-obstante clause and it has given overriding powers to the Central Information Commission or State Information Commission, as the case may be, to examine any record during the inquiry of any complaint under the RTI Act; examine any record to which the RTI Act applies which is under the control of the public authority; and no such record may be withheld from the Central Information Commission or the State Information Commission, as the case may be, on any grounds.
29. The submission of the learned Standing Counsel, State Information Commission is to the effect that with the jurisdiction under Section 18 being only supervisory in nature, the State Information Commission has not been vested with any power to inquire into a complaint of the nature falling within the purview of any of the clauses from clause [a] to clause [f] of sub-section [1] of Section 18 of the RTI Act. If such submission of the learned Standing Counsel, State Information Commission is to be accepted, then coupled with the submission that with no power being vested in the State Information Commission under Section 19 of the Act to enforce compliance of its own order, the provision under Section 18 of the RTI Act providing the powers to the State Information Commission to inquire into a complaint of *any person* falling within the purview of sub-section [1] of Section 18 would be rendered otiose and useless. He has contended that the Hon'ble Supreme Court in *Chief Information Commissioner* [supra] has already held that an applicant after submission of an application under Section 6 could not have approached the State Information Commission under

Section 18 alleging refusal of information to him by the public authority. Acceptance of such an argument would mean that if an applicant after preferring an application under Section 6; and thereafter, preferring a first appeal under Section 19 [1] and a second appeal under Section 19 [3] of the RTI Act; still does not receive the information he has sought for, he would, then in such situation, have no remedy left to receive the information. It would mean that such an applicant would not have the option to file a complaint under any of the sub-clauses from clause [a] to clause [f] of sub-section [1] under Section 18 and such an applicant would be left remediless to receive the information he has sought for. If the projection made by the learned Standing Counsel, KAAC is to be accepted, then the only option left for such an applicant is to make endeavour to invoke the provision of penalty incorporated in Section 20 of the RTI Act. In other words, the State Information Commission after passing a direction in a second appeal under Section 19 [3] of the RTI Act to the concerned public authority to furnish information to the applicant, would not be in a position to enforce compliance of its direction, other than imposing a penalty under Section 20 of the RTI Act, when even after the direction passed by it the public authority refuses to furnish the information sought for by the applicant. Such resultant situation does not, at all, go together with an applicant's fundamental right of access to information guaranteed under Article 19 [1][a] of the Constitution of India.

30. From a closure look at the decision in *Chief Information Commissioner* [supra], it is discernible that the Hon'ble Supreme Court in deciding the issue involved therein, has referred to the settled proposition that where the statute provides for something to be done in a particular manner it can be done in that manner alone and all other modes of performance are necessarily forbidden. It needs iteration that the applicant therein submitted an application under Section 6 for obtaining information from the SPIO and

when the application under Section 6 received no response, the applicant straightaway approached the State Information Commission by filing a complaint under Section 18 of the RTI Act by-passing the statutory appellate remedies provided in Section 19 [1] and Section 19 [3] of the RTI Act. A conclusion has been arrived at that Section 7 read with Section 19 has provided a complete statutory mechanism to a person who is aggrieved by refusal to receive information. It is in such context the observation has been made that if such an approach of by-passing of the appellate remedy is to be allowed then Section 19 would become unworkable and especially, Section 19 [8] would be rendered a surplusage. The applicants therein were accordingly, directed to file appeals under Section 19 of the RTI Act. The Hon'ble Supreme Court has made it clear about the provision which it has considered in *Chief Information Commissioner* [supra] in the following words :-

29. If we look at Section 18 of the Act it appears that the powers under Section 18 have been categorized under clauses [a] to [f] of Section 18 [1]. Under clauses [a] to [f] of Section 18 [1] of the Act the Central Information Commission or the State Information Commission, as the case may be, may receive and inquire into complaint of any person who has been refused access to any information requested under this Act [Section 18 [1][b]] or has been given incomplete, misleading or false information under the Act [Section 18[1][e]] or has not been given a response to a request for information or access to information within time limits specified under the Act [Section 18 [1][c]. We are not concerned with provision of Section 18 [1][a] or 18 [1][d] of the Act. *Here we are concerned with the residuary provision under Section 18 [1][f] of the Act.*

31. From the above conspectus, it is evidently clear that the provisions of Section 18 have vital roles to play in enforcement of the directions or orders made by the Central Information Commission of the State Information

Commission, as the case may be. A scenario is not difficult to envisage that even after a direction passed by the Central Information Commission or the State Information Commission to furnish information to an applicant in a second appeal preferred under Section 19 [3] of the RTI Act the public authority does not to furnish information to the applicant or furnishes information which is incomplete, misleading or false. If in such a situation the provisions of Section 18 are considered to be not operational then the Central Information Commission or the State Information Commission would be incapable to ensure compliance its own directions or orders and the applicant after exhausting all the remedies under the RTI Act would be left remediless, save and except to approach the High Court to invoke the extra-ordinary jurisdiction under Article 226 of the Constitution of India. In the considered view of this Court, the RTI Act is not enacted for a such situation to turn a Constitutional court to exercise its power under Article 226 of the Constitution of India to become a court executing the directions or orders of the Central Information Commission of the State Information Commission passed in their appellate jurisdiction. Noticeably, the powers as are vested in a civil court are vested to the Central Information Commission and the State Information Commission by sub-section [3] of Section 18 only while inquiring into any matter under Section 18, but not while adjudicating an appeal under Section 19. Having regard to the provisions incorporated in Section 18 of the RTI Act this Court is of the considered view that the Central Information Commission of the State Information Commission are not powerless and incapable to enforce compliance of its own directions or orders. It is true, as submitted by the learned Standing Counsel, KAAC, that sub-section [8] of Section 19 of the RTI Act has vested the Commission with the power to impose any of the penalties which included the penalty under Section 20, but such imposition of penalty is to be passed in its decision rendered in the appellate order under Section 19 [3]. Clause [a] of sub-section [8] of Section 19 has provided that in its decision to be passed

under Section 19, the Central Information Commission of the State Information Commission, as the case may be, has the power to require the public authority to take any such steps as may be necessary to secure compliance of the provisions of the RTI Act. If after an order passed in an appeal with direction to furnish information and thereafter, the public authority furnishes information which, according to the applicant, turn out be incomplete, misleading or false then the provision contained in sub-section [8] of Section 19 cannot be made operational as the Central Information Commission of the State Information Commission, as the case may be, after passing its decision in the appeal under Section 19 would not have the authority invoke it subsequently.

32. By keeping both the expressions, '*complaint*' and '*appeal*' in Section 20 separated by '*or*', it has been made clear that a complaint is separate from an appeal. It has been stipulated in Section 20 that 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 concerned Public Information Officer 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 can impose a penalty in terms of money, after giving a reasonable opportunity of being heard. The Central Information Commission or the State Information Commission, in certain situations, can also recommend disciplinary action against the concerned Public Information Officer.

33. It has been settled in *Chief Information Commissioner* [supra] that the Central Information Commissioner or the State Information Commissioner have supervisory jurisdiction under Section 18 and the same goes to mean that the Central Information Commission and the State Information Commission have power, authority and jurisdiction to pass necessary orders to keep the public authorities over whom it exercises jurisdiction within its bounds and can enforce compliance of the provisions of the Right to Information Act for the purpose of accessing information to the applicants, subject to the other limitations provided in the RTI Act. The Central Information Commission and the State Information Commission are statutory authorities established under Section 12 and Section 15 of the RTI Act. The powers and functions of these Information Commissions are well delineated in Section 18, already quoted hereinabove. In Section 18 of the RTI Act the Legislature has incorporated that it shall be duty of these Commissions to receive and inquire into complaint from any person on any of the issues covered by clause [a] to clause [f] of sub-section [1] of Section 18 of the RTI Act.
34. In *Union of India vs. Namit Sharma*, reported in [2013] 10 SCC 359, the Hon'ble Supreme Court has observed as under :-

21. It will be clear from the plain and simple language of Sections 18, 19 and 20 of the Act that, under Section 18 the Information Commission has the power and function to receive and inquire into a complaint from any person who is not able to secure information from a public authority, under Section 19 it decides appeals against the decisions of the Central Public Information Officer or the State Public Information Officer relating to information sought by a person, and under Section 20 it can impose a penalty only for the purpose of ensuring that the correct information is furnished to a person seeking information from a public authority. Hence,

the functions of the Information Commissions are limited to ensuring that a person who has sought information from a public authority in accordance with his right to information conferred under Section 3 of the Act is not denied such information except in accordance with the provisions of the Act.

35. It is too well settled and no authority is required to state that a writ in the nature of mandamus would lie when a statute imposes a duty and there is failure in discharge of duty. While exercising jurisdiction under Article 226 of the Constitution of India, the Court has the power to issue a writ of mandamus or a writ in the nature of mandamus or to pass orders and give necessary directions where the government or a statutory authority has failed to exercise or has wrongly exercised the discretion conferred upon it by a statute or has exercised such discretion in such a manner as to frustrate the object of conferring such discretion. In all such cases and in any other fit and proper case, a High Court can, in the exercise of its jurisdiction under Article 226, issue a writ of mandamus or a writ in the nature of mandamus or pass orders and give directions to compel the performance in a proper and lawful manner of the discretion conferred upon the government or the statutory authority. Article 226 confers power on the High Courts to issue writs for enforcement of the fundamental rights as well as non-fundamental rights. In *Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust v. V.R. Rudani*, reported in [1989] 2 SCC 691, it has been observed to the effect that what is relevant is the nature of the duty imposed on the body. The duty must be judged in the light of positive obligation owed by the person or authority to the affected party. No matter by what means the duty is imposed, if a positive obligation exists mandamus cannot be denied.

36. The Hon'ble Supreme Court in *Union of India & others vs. Bharat Forge Ltd. & another*, reported in [2022] 17 SCC 188, has held that a writ of mandamus or a direction, in the nature of a writ of mandamus, is not to be withheld, in the exercise of powers of Article 226 on any technicalities. This is subject only to the indispensable requirements being fulfilled. There must be a public duty. While the duty may, arise from a statute ordinarily, the duty can also be imposed by common charter, common law, custom or even contract. The fact that a duty may have to be unravelled and the mist around it cleared before its shape is unfolded may not relieve the Court of its duty to cull out a public duty in a statute or otherwise, if in substance, it exists. Equally, mandamus would lie if the authority, which had a discretion, fails to exercise it. A writ of mandamus or a direction in the nature thereof has been given a very wide scope and it is to be issued wherever there is a public duty and there is a failure to perform and the courts will not be bound by technicalities and its chief concern should be to reach justice to the wronged.
37. The term, '*any person*' appearing in Section 18 is not defined anywhere in the Act. As the term, '*any person*' appearing in Section 18 is without any limitation, the same would include also an applicant who approaches the Commission after having exhausted the procedure outlined in Section 6, Section 19 [1] and Section 19 [3] of the RTI Act, with a complaint that the information supplied to him are either misleading or wrong and there was willful disobedience and deliberate non-compliance of the directions given by the Commission in an appeal preferred under Section 19 [3] of the RTI Act. As per the mandate contained in sub-section [1] of Section 18, it shall the duty of the Central Information Commission or the State Information Commission, as the case may be, to inquire into an complaint from *any person*, who has been aggrieved for any of the reasons enumerated in clause [a] to clause [f] thereof. When a statutory authority is vested with a

jurisdiction which is supervisory in character, such supervisory jurisdiction is exercisable when such a public authority over whom it exercises supervisory jurisdiction, fails to discharge an obligation cast on it by a statute and acts in a manner not permitted by law.

38. Reverting back to the facts of the case in hand, the petitioner in his Complaint dated 21.05.2024 has alleged that the information supplied to him are misleading and wrong. When a party questions failure on the part of a statutory authority to perform its statutory duties, it cannot be said that jurisdiction of the High Court under Article 226 is ousted. A writ in the nature of mandamus can be issued in exercise of its jurisdiction under Article 226 of the Constitution if it is found that there is a failure on the part of the statutory authority to adhere to the mandate of law. When the petitioner establishes that his fundamental or statutory right to receive information is violated due to non-exercise of the discretion vested by law by a statutory authority, the writ jurisdiction can be invoked to ensure that the statutory authorities perform their duties as per the mandate of law.
39. In view of the above discussion, this Court finds that the State Information Commission on receipt of the complaint of the nature discussed hereinabove, owes a duty to exercise its jurisdiction under Section 18 of the RTI Act by taking cognizance of the Complaint dated 21.05.2024 received from the petitioner, who fulfills the expression, '*any person*' being an applicant; and who has already exhausted the remedies under Section 6, Section 19[1] and Section 19[3] of the RTI Act, on its own merits by initiating an inquiry as contemplated under Section 18 if the contents of the Complaint falls within clause [e] of sub-section [1] of Section 18 of the RTI Act on reaching a satisfaction that there is reason to inquire into the matter. It is needless to say that in causing such an inquiry, the Commission is

vested with the powers delineated in sub-sections [3] and [4] of Section 18 of the RTI Act.

40. Though this Court has taken notice of the nature of information sought for by the petitioner in the application on 06.10.2022 under the RTI Act and the information supplied to him by the Public Authority on 13.03.2024, this Court has not made any observation as regards the merits of the allegations made by the petitioner in the Complaint dated 21.05.2024. Though the petitioner in his Complaint dated 21.05.2024 has not mentioned under which provision of the RTI Act the said Complaint has been submitted, but such omission on the part of the petitioner to mention the provision of law shall not preclude the Commission to examine as to whether it falls within the ambit and purview of sub-section [1] of Section 18 of the RTI Act. In such view of the matter, the contention of the learned Standing Counsel, KAAC that the said complaint is not to be entertained because of omission on the part of the petitioner to quote the provision of law after consideration, is found unacceptable.
41. In view of the above discussion and for the reasons assigned therein, this Court is of the unhesitant view that the Commission shall take the Complaint dated 21.05.2024 submitted by the petitioner before it on board and after reaching a satisfaction as to whether there are reasonable grounds to inquire into the Complaint, shall proceed to decide, on its own merits, as to whether any inquiry is necessitated or otherwise. It is once against clarified that this Court has not made any observation as regards the merits of the Complaint meaning thereby, the Commission will independently exercise its discretion vested on it under Section 18 of the RTI Act. The Commission is expected to proceed with the matter with utmost expedition and the petitioner and other stakeholders are to be

provided with reasonable opportunity of being heard in the event the Commission decides to proceed with an inquiry.

42. With the observations made and directions given above, the writ petition is disposed of. There shall, however, be no order as to cost.

JUDGE

Comparing Assistant