

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2469 OF 2014

Prasad Prabhakar Oak .. Petitioner
VS.
Chief Information Commissioner & Ors. .. Respondents

Mr. Vinod Pandey i/b. S. U. Pandey for Petitioner.
Mr. A. D. Kango – AGP for Respondent No. 1.

CORAM : M. S. SONAK, J.
DATE: 30 JANUARY 2015

P.C. :-

1] This petition takes exception to the order dated 2 August 2012 made by the State Chief Information Commissioner imposing upon the petitioner penalty of Rs.15,000/-, on the ground of delay in furnishing the information to the respondent no. 3, in pursuance of the respondent no. 3's application dated 8 July 2010.

2] The impugned order records that the petitioner was afforded opportunity to show cause, pursuant to which the petitioner remained present before the Chief Information Commissioner on 2 August 2012 and admitted that he did not give any written reply to the respondent no. 3's application dated 8 July 2010.

3] The learned counsel for the petitioner points that such an admission was never made and could not have been made, in view of documentary evidence, already available on record, which would indicate that the petitioner had indeed sent a written reply to the respondent no. 3 on 21 July 2010.

4] Normally in a matter like this, the petitioner would have been relegated before the Chief Information Commissioner, because the record of whatever may have transpired before the authority, is to be accepted as correct. In case there is any contest, then it is for the party concerned to approach the very same authority, in order to get the record corrected. However, looking to the facts of this case, it may not be necessary to relegate the petitioner to adopt such course of action.

5] The respondent no. 3, by application dated 8 July 2010 applied for some information. The same was responded to by the petitioner on 21 July 2010. There can be no dispute about this position, because in the first appeal preferred by the respondent no. 3, the said respondent admitted receipt of information, but contended that the same was incomplete. In the first appellate court as well, the petitioner had contended that complete information was supplied. The first appellate court rather than going to this

controversy, merely directed the petitioner to furnish the complete information, which was accordingly furnished.

6] In view of the aforesaid circumstances, which are very much borne by the material on record, it does seem that there was some communication gap, in the matter of the record as reflected in the impugned order dated 2 August 2012. The petitioner had indeed furnished a written response to the respondent no.3's application dated 8 July 2010 on 21 July 2010, which is well within the prescribed period for furnish of information under the Right to Information Act. The only controversy was whether the information furnished was complete or not.

7] In this view of the matter, the impugned order dated 2 August 2012 imposing penalty upon the petitioner is set aside. Rule is made absolute in terms of prayer clause (b). There shall be no order as to costs.

(M. S. SONAK, J.)