

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 2ND DAY OF SEPTEMBER 2015/11TH BHADRA, 1937

WA.No. 1709 of 2015 (G) IN WP(C).2261/2014

AGAINST THE JUDGMENT IN WP(C) 2261/2014 DATED 24-10-2014

APPELLANTS/RESPONDENTS 2 AND 3 :-

1. K.S.MAHAJAN,
CENTRAL PUBLIC INFORMATION OFFICER (NOW RETIRED)
MINISTRY OF HUMAN RESOURCES DEVELOPMENT
DEPT OF HIGHER EDUCATION, SHASTHRI BHAVAN
NEW DELHI-110 001.
2. R.A.SINGH,
FIRST APPELLATE AUTHORITY UNDER RTI, (NOW RETIRED)
MINISTRY OF HUMAN RESOURCE DEVELOPMENT
DEPARTMENT OF HIGHER EDUCATION, SHASTHRI BHAVAN
NEW DELHI-110 001.

BY ADV. SRI.MANU.S, CGC

RESPONDENTS/PETITIONER & 1ST RESPONDENT :-

1. MANNATTIL KUMAR,
89, JAWAHAR NAGAR, KOCHI-682 020.
2. THE CENTRAL INFORMATION COMMISSIONER,
CENTRAL INFORMATION COMMISSION, ROOM NO.307, 2ND FLOOR
B WING, AUGUTST KRANTI BHAVAN, BHIKAJI KAMA PLACE
NEW DELHI-110 066.

R2 BY ADV. SRI.V.R.RAKESH, CGC
BY SRI.MANNATTIL KUMAR (PARTY IN PERSON)
BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 02-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

APPENDIX

APPELLANTS' EXHIBITS :-

ANNEXURE I :- TRUE COPY OF THE LETTER RECEIVED FROM THE OFFICE OF THE MINISTER OF STATE FOR HUMAN RESOURCES DEVELOPMENT.

ANNEXURE II :- TRUE COPY OF THE LETTER NOTE DATED 15.3.2013.

ANNEXURE III :- TRUE COPY OF THE NOTE DATED 15.5.2013.

RESPONDENT'S EXHIBITS :- NIL.

//TRUE COPY//

P.A. TO JUDGE

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.A. No.1709 of 2015

Dated this the 2nd day of September 2015

J U D G M E N T

Shaffique, J.

This writ appeal is filed by respondents 2 and 3 challenging the judgment dated 24.10.2014 in W.P.(C) No.2261 of 2014.

2. The writ petition was filed by the first respondent seeking to quash Ext.P1 and for a direction to supply information as sought for in Annexure-1 of Ext.P2. Further, the petitioner sought for a relief to impose penalty under Sec.20 of the Right To Information Act (hereinafter referred to as 'RTI Act' for short) as may be deemed appropriate in this case. The facts involved in the writ petition would disclose that though the petitioner submitted that he had applied for certain information from the Information Officer of Ministry of Human Resource Development, Government of India, by letter dated 30.10.2013, the Central Information Commission, New Delhi has upheld the order passed by the First Appellate Authority, by which, he was denied necessary information. It is stated that the petitioner sought for certain information regarding the status of his representation submitted

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to the Minister of State for Human Resource Development. The said information was not granted and he was informed that such a representation was not received in the office. He submitted necessary documents from the Postal Department to indicate that the representation was served in the office of the Minister of State. Despite that the Central Information Commission had taken an approach that the information sought for by the petitioner has already been given on the premise that the request made in the application was beyond the scope of the responsibilities of the Minister.

3. The learned Single Judge, by the impugned judgment, having found that the information ought to have been granted to the petitioner, directed the 2nd respondent to provide the information sought by the petitioner under Annexure-1 of Ext.P2 within 30 days and the respondents were also imposed with cost of ₹3,000/- for having unnecessarily dragged the writ petitioner to the Court.

4. We have heard the learned counsel for the appellants as well as the writ petitioner, who appeared in person.

5. Ext.P1 is the order passed by the Central Information Commission. It is stated in the said order that the Information

Officer on three separate occasions had informed in writing that no such letter of the appellant (writ petitioner) has been received. Further, according to the appellant's (writ petitioner's) own admission, the letter sent by him was addressed to 'Shri.Shashi Tharoor, New Delhi'. No address or designation was provided. Hence, it was decided that in view of the categoric admission made by the public authority, regarding non receipt of the communication in question, there was no reason to interfere with the responses in terms of the application.

6. The claim made by the petitioner in terms of Annexure-1 dated 17.1.2013 reads as under :-

"I had submitted a representation dated 7.12.2012 to the Hon'ble Minister of State for Human Resource Development Dr.Shashi Tharoor requesting that the Hon'ble Minister may kindly use his good offices with the Ministry of Shipping for reconsideration of my representation (rejected by the Ministry arbitrarily) relating to redressal of my grievance pertaining to denial of legitimate growth opportunities by Cochin Shipyard Ltd.

It is humbly requested that I may kindly be informed of the nature of disposal of the said representation."

The information sought for by the petitioner is regarding the nature of disposal of his representation. It is stated that the

representation dated 7.12.2012 was given to the Minister of State for Human Resource Development, Dr. Shashi Tharoor, requesting him to use his good offices with the Ministry of Shipping for reconsideration of his representation, which was already rejected by the said Ministry of Shipping. It is apparent therefore, that the representation was in fact not an issue relating to the legal obligation of the Minister of State for Human Resource Development, who has to consider and pass appropriate orders. He has to take up the issue with Ministry of Shipping and prevail upon them to review their earlier stand. The Public Information Officer attached to the Ministry had sought for the information from the Minister's office and the Public Information Officer was given information that the said document was not available. This resulted in subsequent correspondence between the parties and thereafter, the petitioner had produced certain materials to indicate that the representation had in fact been served in the Office of the Minister concerned. The Central Information Commission being the Appellate Authority had considered the entire issues and found that since the Minister had not passed any order based on the fact that the representation was not received and when such information has already been provided, there was

no reason to take further proceedings in accordance with the provisions of the RTI Act.

7. The petitioner, who appeared in person, on the other hand argues that since the Minister's office was under obligation to give the status of the information sought by him and the reply given was not in accordance with the provisions of the Statute, necessary action ought to have been taken against the Information Officer under Sec.20 of the RTI Act.

8. Having heard the learned counsel for the appellants as well as the petitioner, who appeared in person, we are of the view that the learned Single Judge was not justified in issuing the direction as sought for.

9. First of all, the learned Single Judge had already found that no action could be taken in terms of Sec.20 of the RTI Act. Further, the learned Single Judge proceeded on the basis that there was material to indicate that the information sought for in the representation was not provided and therefore, a direction was issued to provide such information. In fact a perusal of Ext.P1 order clearly indicates that the Central Information Commissioner had considered the entire issues, after hearing the respective parties and formed an opinion that the information sought for by

the petitioner had already been granted. The information received by the Information Officer was that there was no such representation in the Office of the Minister. Whether that information was correct or not is a different question. But the fact remains that such an information was given by the Public Information Officer after getting information from the Minister's Office. It is submitted on behalf of the appellants that even after the receipt of further particulars from the Postal Department regarding the service of representation, still, the information was given stating that the issue does not pertain to the Ministry of Human Resource Development, which the Minister has to consider. That apart, the representation was sent in the personal name of Dr.Shashi Tharoor and he had no intention to use his good offices with the Ministry of Shipping to make them consider the representation of the petitioner.

10. Under such factual circumstances, when all the information relating to the representation has already been served on the petitioner, we do not think that the Central Information Commissioner has committed any error in rejecting the claim of the petitioner. For that reason itself, the learned Single Judge was

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not justified in directing that information is to be given to the petitioner.

10. Having regard to the aforesaid factual situation, we are of the view that there is no justification on the part of the petitioner to challenge Ext.P1 order as the same has been issued in accordance with the provisions of the RTI Act. Since the statutory authorities have come to a definite finding and there is no perversity or illegality in the order, it is not open for this Court to form a different opinion. For the same reason, the imposition of cost on the appellants was unwarranted.

In the result, this appeal is allowed. We set aside the judgment of the learned Single Judge and the writ petition stands dismissed.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE