

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

W.P.(C).No.28443 of 2008 (J)

PETITIONER(S):-

S. ANIL DAS,
PUBLIC INFORMATION OFFICER AND CIRCLE OF POLICE,
KARUNAGAPPALLY.

BY ADVS.SRI.RAJESH THOMAS
SRI.JIJO JOSEPH
SRI.R.PRADEEP (SREEKULAM)

RESPONDENT(S):-

1. STATE INFORMATION COMMISSIONER, KERALA,
STATE INFORMATION COMMISSION, PUNNAN ROAD,
THIRUVANANTHAPURAM,
REPRESENTED BY THE SECRETARY TO THE COMMISSIONER.
2. E.RAJASEKHARAN PILLAI,
MANIMANDIRAM, INJAKKAD, SOORANADU,
KOLLAM.

R1 BY STANDING COUNSEL SRI.M.AJAY.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
19-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER(S)' EXHIBITS:-

EXHIBIT P1: TRUE COPY OF THE PETITION DATED 21.11.2007 FILED BY
THE 2ND RESPONDENT BEFORE THE SUPERINTENDENT OF
POLICE, KOLLAM UNDER THE RTI ACT 2005.

EXHIBIT P2: TRUE COPY OF THE PETITION DATED 27.02.2008.

EXHIBIT P3: TRUE COPY OF THE NOTICE DATED 28.04.2008 ISSUED BY
THE 1ST RESPONDENT TO THE PUBLIC INFORMATION OFFICER,
OFFICE OF THE DISTRICT SUPERINTENDENT OF POLICE.

EXHIBIT P4: TRUE COPY OF THE REPLY LETTER DATED 16.05.2008 ISSUED
BY THE STATE PUBLIC INFORMATION OFFICER,
DISTRICT SUPERINTENDENT OF POLICE, KOLLAM.

EXHIBIT P5: TRUE COPY OF THE LETTER NO.CC97/312/GL/2008
DATED 9.5.2008.

EXHIBIT P6: TRUE COPY OF THE LETTER DATED 16.05.2008 SENT BY THE
PETITIONER BEFORE THE 1ST RESPONDENT.

EXHIBIT P7: TRUE COPY OF THE EXPLANATION LETTER DATED 19.08.2008
FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT P8: TRUE COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT
DATED 26.08.2008.

RESPONDENT(S)' EXHIBITS:-

NIL.

VKU/-

[TRUE COPY]

K. Vinod Chandran, J

W.P.(C).No.28443 of 2008-J

Dated this the 19th day of June, 2015

JUDGMENT

The petitioner, a Public Information Officer as constituted under the Right to Information Act, 2005 [for brevity “the Act”], is before this Court against Exhibit P8 order of the State Information Commission. The State Information Commission, by the impugned order, levied the maximum penalty of Rs.25,000/- [Rupees twenty five thousand only] for the reason of the delay caused in providing the information.

2. The controversy arose with Exhibit P1 application filed by the 2nd respondent. The information sought for was with respect to a remittance made by the Sub Inspector of Police, Karunagappilly in the year 1999 in CMP.76/99 as per receipt No.ARD.188/99. The information sought for was as to the reason behind such remittance.

3. At the outset, it has to be stated that what is sought for in the application does not come within "information" as defined under the Act, which is something discernible from any material in any form, including records, documents, memos and so on and so forth as enumerated in the definition. The information sought for was the reason behind such remittance, which was not possible to be furnished, since no document would indicate the same.

4. In any event, the 2nd respondent approached the Commission with a complaint, that, information was not furnished within time. In the meanwhile, the information was furnished as per Exhibit P5. As was indicated earlier, no reason could be stated and it was merely informed that one Rex Bobby Arvin, who was the Sub Inspector of Police, Karunagappilly at that point of time, has made the remittance as per the receipt dated 09.08.1999. The said information was already available with the 2nd respondent. The complaint before the State Information Commission was later taken up and Exhibit P8 order was passed.

5. The first submission of the learned counsel for the petitioner is that the appeal before the State Information Commission has to be filed in a particular manner and that having not been done, Exhibit P8 has to be set aside for the said procedural defect.

6. Exhibit P8 admittedly was one on a complaint submitted by the 2nd respondent to the Chief Minister; forwarded to the State Information Commission. The said contention need not be considered, since on furnishing the information, as is seen from Exhibit P5, the Commission closed the complaint on that count. The challenge to be considered is the penalty imposed under Section 20 of the Act. Admittedly notice was issued under Section 20 and the latter portion of Exhibit P8 cannot be found fault with for any procedural irregularity.

7. As to the explanation for the delay caused, the petitioner has submitted before the Commission that the information sought was with respect to a remittance made nine years back by the then Sub Inspector of Police,

Karunagappilly. The petitioner had to trace out the records, which were not available even in the Court. The petitioner, the Circle Inspector of Police, was also concerned with the law and order situation within his circle. It was, hence, there was a delay in giving the information. In any event, as found earlier by this Court the information was not one which could have been furnished by the petitioner, the Public Information Officer under the Act. In such circumstance, Exhibit P8 order to the extent it imposed penalty is set aside. The petitioner shall file an application to the authority before whom he remitted Rs.10,000/- [Rupees ten thousand only] as per the interim order of this Court dated 24.09.2008. On receipt of the application, the authority shall refund the amounts as expeditiously as possible.

The writ petition is disposed of as above.

Sd/-

K.Vinod Chandran
Judge.

vkul/-

[true copy]