

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WP(C).No. 35932 of 2010 (N)

PETITIONER

U.MOOSAKUTTY, S/O. USSANAR,
KOMATHU PARAMBIL HOUSE, VAVUIYAPURAM AMSOM,
THARUR P.O., ALATHUR TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.JOHN JOSEPH(ROY)

RESPONDENT(S):

1. STATE INFORMATION COMMISSION,
PUNNEN ROAD, THIRUVANANTHAPURAM-695 039.
2. THE PUBLIC INFORMATION OFFICER/SECRETARY,
THARUR GRAMA PANCHAYATH, THARUR P.O.,
PALAKKAD-678 547.

R1 BY ADV. SRI.M.AJAY, SC,
R2 BY ADVS. SMT.JEENA JOSEPH
SRI.G.D.PANICKER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

P T O

APPENDIX

PETITIONER'S EXHIBITS

EXT P1. TRUE COPY OF THE DISPUTED APPLICATION SUBMITTED BEFORE THE 2ND
RESPONDENT ON 21.10.2008.

EXT P2. TRUE COPY OF THE ORDER DATED 24.03.2009

EXT P3. TRUE COPY OF THE RECEIPT NO.83/15057 ISSUED BY THE 2ND
RESPONDENT

EXT P4. TRUE COPY OF THE ORDER DATED 07.12.2009

EXT P5. TRUE COPY OF THE DETAILS FURNISHED ON 14.12.2009.

EXT.P6.TRUE COPY OF THE JUDGMENT DATED 17.05.2010 OF THIS HON'BLE COURT
IN W.P(C)NO.239/10.

EXT.P7. TRUE COPY OF THE PETITION DATED 29.05.2010 FILED BEFORE THE 1ST
RESPONDENT.

EXT.P8. TRUE COPY OF THE ORDER DATED 30.07.2010 ISSUED BY THE 1ST
RESPONDENT.

RESPONDENT(S)' EXHIBITS

NIL.

//TRUE COPY//

P.S.TO JUDGE

KAS

K. VINOD CHANDRAN, J.

W.P.(C) No. 35932 of 2010 (N)

Dated this the 20th day of July, 2015

J U D G M E N T

The petitioner is aggrieved with Ext.P8 order passed by the State Information Commission, wherein the State Information Commission refused to impose any penalty under section 20 of the Right To Information Act, 2005 (for brevity 'the Act'). The petitioner contends that the findings in Ext.P8 are incongruous insofar as in Ext.P4, on an appeal filed from the non-receipt of the information itself, the Commission had found that the fees were paid.

2. The brief facts to be noticed is that the petitioner had made three applications for supply of information under the Act before the 2nd respondent. On the petitioner not having been given the said information, the petitioner was before the appellate authority, which passed an order at Ext.P2 directing the petitioner to be supplied with the information sought for. Even that having not materialised,

the petitioner was before the State Information Commission which ruled in favour of the petitioner by Ext.P4. In Ext.P4 itself it was found that the fee paid by the petitioner was with respect to one of the requests made; which information sought for, was supplied to the petitioner on 31.12.2008 itself. However, the request with respect to the details of house tax paid by certain persons who are included in the BPL list, as per Ext.P1, was not seen supplied to the petitioner and hence the same was directed to be supplied by Ext.P4. The petitioner was supplied with such information.

3. Later, the petitioner was before this Court seeking proceedings to be taken against the Public Information Officer (P.I.O.) (R2) under Section 20 of the Act. The same however, ended in no action being taken as per Ext.P8. In Ext.P8 also it was found that the petitioner had made three applications under one postal article and the P.I.O. had sought for remittance of fees only in one of

the said applications. The information, with respect to the request for which fees were paid, was supplied on the date on which the fee was paid i.e. 31.12.2008. With respect to the other applications, it was found by the State Information Commission that the P.I.O. committed a mistake insofar as not directing the petitioner to pay the fees in all the said applications. However that, according to the Commission, does not mandate a penalty, since there was, in fact, no delay occasioned.

4. The petitioner's contention before the Commission was that Ext.P3 produced herein, showing the date of remittance of fees as 31.11.2008, was the fees remitted with respect to Ext.P1 query. The Commission, in fact, called for the receipt book available with the P.I.O. and perused the same and found that receipt nos. 80, 81 and 82, which precede receipt no.83 produced at Ext.P3, are all of the date 31.12.2008. In such circumstance, the Commission found that the date noticed in Ext.P3 was only a mistake.

Hence, even going by Ext.P4 order it was found that the fees was remitted only with respect to one request. That was also due to the mistake committed by the P.I.O. in not demanding the fees for all the three requests. However, the same is only a bonafide mistake and the petitioner also had made three different applications in one single postal article.

5. In any event, the information sought for as per Ext.P1 has also been supplied to the petitioner. This Court does not find any incongruity in the findings of the Commission in Exts.P4 and P8. The petitioner submits that the fees was remitted by other receipts, and the Commission though noticed it at Ext.P8, did not permit production of the same before it. The petitioner, however, has not produced any such receipts in the above writ petition also.

Considering all the circumstances, this Court does not find any reason to interfere with Ext.P8 and the writ petition would stand dismissed.

Sd/-
K.VINOD CHANDRAN,
JUDGE