

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20845 of 2013

Dharikshan Ram S/O Late Ram Pujan Ram Resident Of Mauor, P.S. Shahpur,
District - Bhojpur

.... Petitioner/s

Versus

1. The State Of Bihar through the District Magistrate, Supaul
2. The State Information Commission through Its Commissioner, Bailey Road, Patna
3. The State Information Commissioner, Bailey Road, Patna
4. The Under Secretary, State Information Commissioner, Bailey Road, Patna
5. The Treasury Officer, Supaul
6. Sri Gauri Shankar Choudhary S/O Late Dayal Choudhary, M/S Mahavir Construction, P.O. Nemua, Distt. Supaul

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. KRISHNA KANT SINGH
For respondent nos. 3 &4
(State Information Commission) Mrs. Binita Singh
For the State Mr. Arun Kumar AC to GP-5

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 20-07-2016

Heard the counsel for the petitioner and the State
Information Commission.

The petitioner is Public Information Officer. Certain
informations sought from him was/were not supplied. In the
circumstances, the respondent no.6 filed a second appeal before the
State Information Commission under section 20 of the RTI Act, 2005
(for short 'the Act'). The matter was taken cognizance of and a
proceeding bearing case no. 4737/10-11 was initiated which continued
on diverse dates. Upon notice, the petitioner also appeared and filed
his written submission/defence. The relevant order-sheet of the
proceeding has been enclosed in the counter affidavit of the



respondents. In spite of notice and instruction, the petitioner was found deficient in supplying information to the complainant (respondent no.6) inasmuch as he did not present himself before the Commission on the date fixed. In the circumstances, the Commission, vide order dated 04.07.2013, imposed upon the petitioner a penalty in the sum of Rs. 25,000/-. Seeing the defiant attitude of the petitioner, he was also called upon to submit his show case as to why a departmental proceeding be not recommended against him. This is the order which is impugned in the writ petition placed at Annexure-19.

Mr. Singh submitted that all informations available with the petitioner had been supplied. Appropriate information was also given to the Commission. The order imposing penalty on him is bad in law. The petitioner was not present on the day when the order was passed which is a procedural flaw in the proceeding.

The counsel for the respondent no. 6 conversely submitted that from the order sheet of the proceeding it would appear that the case proceeded on the file of the Commission for nearly four years. On notice, the petitioner had appeared and filed his written defense. The Commission took notice of the fact that despite clear orders/directions, he had not presented himself on the date fixed in the proceeding and all relevant information was not supplied. Having found so, the imposition of penalty was ordered as provided under the Act. There is no legal flaw in the procedure adopted by the Commission.

The Commission is vested with power/duty to consider such matter. The relevant material(s) available on record were considered by the Commission. The Court in exercise of its writ

jurisdiction would not appraise those materials to come to a different finding/conclusion. If there is any fundamental legal flaw in the decision making process, then the Court can invoke its extra-ordinary writ jurisdiction. Unfortunately, no such legal flaw has been shown.

The application is dismissed.

(Kishore Kumar Mandal, J)

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