

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (C) No.4560 of 2007

The State Public Information Officer, Chhattisgarh Lok Ayog, 432, Mahadeoghat Road, Raipura, Raipur, C.G., through Smt. Amrita Sanjay Lal.

---- Petitioner

Versus

1. The Chhattisgarh State Information Commission, Nirmal Chhaya Bhawan, Meera Datar Road, Shanker Nagar, Raipur, C.G. – The Second Appellate Authority.
2. The Secretary, Chhattisgarh Lok Ayog, 432, Mahadeoghat Road, Raipura, Raipur, C.G. – The First Appellate Authority.
3. Umesh Agrawal, Treasury Officer, Bilaspur, C.G.

---- Respondents

For Petitioner: Mr. H.B. Agrawal, Senior Advocate with Mrs. Prabha Sharma, Advocate.

For Respondents: None present, though served.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

25/07/2017

1. Invoking the jurisdiction of this Court under Article 226/227 of the Constitution of India, the petitioner has filed this writ petition calling in question the order 28-5-2007 passed by the Chhattisgarh Information Commission by which a cost of ₹ 250/- has been imposed upon the Public Information Officer, Chhattisgarh Lok Ayog, Raipur.
2. Mr. Umesh Agrawal sought information from the Chhattisgarh Lok Ayog to provide a copy of the provision of the Chhattisgarh Lok Aayog Adhiniyam, 2002 (for short, 'the Act, 2002') by which complaint even if without supported by affidavit and necessary deposit and not in prescribed form can be taken cognizance of, on 21-12-2006. The information was supplied on 15-1-2007 relying upon Section 9 of the

Act, 2002 against which he preferred first appeal before the first appellate authority. The first appellate authority by order dated 15-3-2007 issued certain directions to the Public Information Officer and dissatisfied with that order, the Chhattisgarh Lok Ayog preferred an appeal before the State Information Commission. The State Information Commission came to the conclusion that the information supplied by the Public Information Officer was erroneous and was not the desired information in light of the Act, 2002, as under that Act only on submitting affidavit and deposit of necessary deposit, a complaint can be enquired into. Since the information is erroneous, therefore, the information be supplied within 15 days and since it is willful and malicious, therefore under Section 19 (8) (b) of the Right to Information Act, 2005, compensated the complainant by imposing a cost of ₹ 250/- against which this writ petition has been preferred.

3. Mr. H.B. Agrawal, learned Senior Advocate appearing for the Public Information Officer, Chhattisgarh Lok Ayog, would submit that requisite information was supplied to the complainant by quoting the provision of law and as such it cannot be held that the information supplied was erroneous. He would further submit that the penalty provision as contained in Section 19 (8) (b) of the Right to Information Act, 2005 has to be read with Section 20 (2) of the said Act of 2005 and, therefore, the power conferred under Section 20 (2) has to be exercised strictly only when the parameters of Section 20 (2) are followed.
4. No one has appeared on behalf of the respondents, though served.
5. I have heard learned Senior Advocate for the petitioner.
6. The Chhattisgarh Information Commission held that the information

supplied was erroneous. Section 19 (8) (b) of the Right to Information Act, 2005 is the power of the appellate authority to require the public authority to compensate the complainant for any loss or other detriment suffered. The Chhattisgarh Information Commission has clearly recorded a finding that it is not deliberate or it is not the case that maliciously the Information Officer has given wrong information, therefore, there is no need to impose fine, but on the same breath the Information Commission has held that respondent Umesh Agrawal has suffered mental and financial loss and therefore imposed fine of ₹ 250/- upon the Public Information Officer. The Chhattisgarh Information Commission having been held that it is not the case where penalty under Section 20 (2) of the Right to Information Act, 2005 could not be imposed, it could not have imposed damages, as there is neither pleading nor any material to hold that the complainant has suffered any loss or damage on account of the bona fide information supplied by the Chhattisgarh Lok Ayog, as it is not the case that information so supplied was tainted with mala fides or it was deliberate.

7. In view of the above, the order passed by the State Information Commission imposing damages of Rs.250/- is hereby set aside.
8. The writ petition is allowed to the extent indicated herein-above. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge