

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2412 of 2017**

Smt. Priyanka Shrirange W/o Pankaj Shrirange, Aged About 36 Years
Working As Sub Registrar, Balod, District Balod (C.G.).

---- **Petitioner****Versus**

1. Chhattisgarh State Information Commission Raipur Through State Information Commissioner, Raipur (C.G.).
2. Sanni Dewangan, S/o Shri Ishwari Prasad, R/o Mother Teresa Nagar, Beside Qtr. No. 16, Ward No. 22, Camp - li, Bhilai, District Durg (C.G.)

---- **Respondent****And****WPC No. 2370 Of 2017**

Smt. Priyanka Shrirange W/o Pankaj Shrirange, Aged About 36 Years
Working As Sub Registrar, Balod District Balod Chhattisgarh.

---- **Petitioner****Vs**

1. The Chhattisgarh State Information Commission Raipur Throuhg State Information Commissioner, Raipur, (C.G.)
2. Sanni Dewangan S/o Shri Ishwari Prasad , R/o Mother Teresa Nagar, Beside Qtr. No. 16, Ward No. 22, Camp-li, Bhilai, District Durg, (C.G.)

---- **Respondent****And****WPC No. 2459 Of 2017**

Smt. Priyanka Shrirange W/o Pankaj Shrirange, Aged About 36 Years
Working As Sub Registrar, Balod, District Balod, Chhattisgarh.

---- **Petitioner****Vs**

1. Chhattisgarh State Information Commission Raipur Through State Information Commissioner, Raipur, Chhattisgarh.
2. Sanni Dewangan S/o Shri Ishwari Prasad, R/o Mother Teresa Nagar, Beside Qtr. No. 16, Ward No. 22, Camp I I, Bhilai, District Durg, Chhattisgarh.

---- **Respondents**

And

WPC No. 1190 Of 2017

Smt. Priyanka Shrirange W/o Pankaj Shrirange, Aged About 36 Years
Working As Sub Registrar, Balod, District Balod (C.G.)

---- Petitioner

Vs

1. Chhattisgarh State Information Commission Raipur Through State Information Commissioner, Raipur (C.G.)
2. Sanni Dewangan S/o Shri Ishwari Prasad, R/o Mother Teresa Nagar, Beside Qtr. No. 16, Ward No. 22, Camp- II, Bhilai, District Durg (C.G.)

---- Respondents

For Petitioners	: Shri H.B. Agrawal, Senior Advocate with Smt. Prabha Sharma, Advocate.
For Respondent No. 1	: Shri Shyam Sunder Lal Tekchandani, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

18/09/2017

(1) Learned counsel appearing for the petitioner would submit that a show cause notice has been issued to the petitioner under Section 20(1) of the Right to Information Act, 2005 (henceforth "Act, 2005") and also recommended for initiating disciplinary action, against which he has filed reply but the same has not been considered and decided till now.

(2) Learned counsel for respondent No. 1 would submit that the order impugned will be passed after hearing counsel for the petitioner in accordance with law.

(3) I have heard learned counsel for the parties and perused the order impugned with utmost circumspection.

(4) In the matter of **Manohar Manikrao Anchule Vs. State of Maharashtra & another**¹, their Lordships of the Supreme Court have held that disciplinary action under Section 20(2) of the Act, 2005 ought to be recommended where ingredients of Section 20(2) of the Act, 2005 are satisfied. Paragraphs 26 & 28 states as under:-

¹ AIR 2013 SC 681

“26. From the above dissected language of the provision, it is clear that first of all an opinion has to be formed by the Commission. This opinion is to be formed at the time of deciding any complaint or appeal after hearing the person concerned. The opinion formed has to have basis or reasons and must be relatable to any of the defaults of the provision. It is a penal provision as it vests the delinquent with civil consequences of initiation of and/or even punishment in disciplinary proceedings. The grounds stated in the Section are exhaustive and it is not for the Commission to add other grounds which are not specifically stated in the language of [Section 20\(2\)](#). The section deals with two different proceedings. Firstly, the appeal or complaint filed before the Commission is to be decided and, secondly, if the Commission forms such opinion, as contemplated under the provisions, then it can recommend that disciplinary proceedings be taken against the said delinquent Central Public Information Officer or State Public Information Officer. The purpose of the legislation in requiring both these proceedings to be taken together is obvious not only from the language of the section but even by applying the mischief rule wherein the provision is examined from the very purpose for which the provision has been enacted. While deciding the complaint or the appeal, if the Commission finds that the appeal is without merit or the complaint is without substance, the information need not be furnished for reasons to be recorded. If such be the decision, the question of recommending disciplinary action under [Section 20\(2\)](#) may not arise. Still, there may be another situation that upon perusing the records of the appeal or the complaint, the Commission may be of the opinion that none of the defaults contemplated under [Section 20\(2\)](#) is satisfied and, therefore, no action is called for. To put it simply, the Central or the State Commission have no jurisdiction to add to the exhaustive grounds of default mentioned in the provisions of [Section 20\(2\)](#). The case of default must strictly fall within the specified grounds of the provisions of [Section 20\(2\)](#). This provision has to be construed and applied strictly. Its ambit cannot be permitted to be enlarged at the whims of the Commission.

28. It appears that the facts have not been correctly noticed and, in any case, not in their entirety by the State Information Commission. It had formed an opinion that the appellant was negligent and had not performed the duty cast upon him. The Commission noticed

that there was 73 days delay in informing the applicant and, thus, there was negligence while performing duties. If one examines the provisions of [Section 20\(2\)](#) in their entirety then it becomes obvious that every default on the part of the concerned officer may not result in issuance of a recommendation for disciplinary action. The case must fall in any of the specified defaults and reasoned finding has to be recorded by the Commission while making such recommendations. 'Negligence' per se is not a ground on which proceedings under [Section 20\(2\)](#) of the Act can be invoked. The Commission must return a finding that such negligence, delay or default is persistent and without reasonable cause. In our considered view, the Commission, in the present case, has erred in not recording such definite finding. The appellant herein had not failed to receive any application, had not failed to act within the period of 30 days (as he had written a letter calling for information), had not malafidely denied the request for information, had not furnished any incorrect or misleading information, had not destroyed any information and had not obstructed the furnishing of the information. On the contrary, he had taken steps to facilitate the providing of information by writing the stated letters. May be the letter dated 11th April, 2007 was not written within the period of 30 days requiring respondent No.2 to furnish details of the period for which such information was required but the fact remained that such letter was written and respondent No.2 did not even bother to respond to the said enquiry. He just kept on filing appeal after appeal. After April 4, 2007, the date when the appellant was transferred to Akola, he was not responsible for the acts of omissions and/or commission of the office at Nanded."

- (5) Be that as it may, since the show cause notice issued to the petitioner has already been replied, the necessary decision will be taken by the State Information Commissioner in accordance with law.
- (6) With the aforesaid observations, the writ petition stands finally disposed of.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

