NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No.649 of 2014

1. State of Chhattisgarh, Through: Secretary, Department of Forest, Mahanadi Bhawan, Naya Mantralaya, Raipur (CG)

   (The respondent No.1 is not the party before the State Information Commission, but has been impleaded for just and proper adjudication of the instant case).

2. The Principal Chief Conservator of Forest, Aranya Bhawan, Medical College Road, Raipur (CG)

3. The Additional Principal Chief Conservator of Forest (Admn.) Aranya Bhawan, Medical College Road, Raipur (CG)

4. The Public Information Officer, O/o the Principal Chief Conservator of Forest, Aranya Bhawan, Medical College Road, Raipur (CG)

---- Petitioner

Versus

1. The Chhattisgarh State Information Commission, through the Commissioner, Chhattisgarh State Information Commission, Raipur

2. Indar Chand Soni, Social Worker, R/o Jawahar Chowk, P.S. Kotwali, Durg, District Durg (CG)

---- Respondents

For Petitioners/State : Mr.Arun Sao, Dy.A.G.
For Respondent No.1 : Mr.Shyam Tekchandani, Advocate
For Respondent No.2 : Mr.V.G.Tamaskar, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

01/08/2018

1. This writ petition is directed against order imposing penalty of ₹ 2000/- by the State Information Commission upon the Public Information Officer for supplying unverified information to respondent No.2/information seeker.

2. Heard learned counsel for the parties and considered their rival submissions made herein-above and perused the record.

3. It is not in dispute that information was supplied by the Public Information Officer to respondent No.2, but that information was unverified leading to filing of complaint to the Commission under Section 18 of the Right to Information Act, 2005 (hereinafter called as 'RTI Act') and the Commission finding that information supplied to respondent No.2 was unverified/non-attested imposed a penalty of ₹ 2000/- to the Public Information Officer under Section 20(1) of the RTI Act.

4. Section 20(1) of the RTI Act provides as under:-

> "**20. Penalties**.-(1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees: Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:
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> Provided further that the burden of proving that he acted reasonably and diligently shall be on the

> Central Public Information Officer or the State Public Information Officer, as the case may be."

5. A bare perusal of the above-stated provision would clearly show that penalty can be imposed if the Public Information Officer has given incorrect, incomplete or misleading information. It is not the case here. Merely supplying non-attested information, no penalty can be imposed under Section 20(1) of the RTI Act. Even otherwise, it has not been established on record that the alleged non-attested information was either incomplete or incorrect/misleading.

6. In view of above analysis, the writ petition is allowed and order imposing penalty is set aside. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-