

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 7393 of 2011**

Ghanshyam Sharma, S/o. Late Hanuman Prasad Sharma, Aged about 32 years, R/o. Ratanpur, Mahamayapara, Ratanpur, Tahsil Kota, District Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. The State Information Commission, through: State Information Commissioner, Chhattisgarh State Information Commission, Nirmal Chhaya Bhawan, Meera Datar Road, Shankar Nagar, Raipur, District Raipur, Chhattisgarh
2. Nagar Panchayat, Ratanpur, Through: Chief Municipal Officer, Nagar Panchayat, Ratanpur, District Bilaspur Chhattisgarh
3. Chief Municipal Officer-cum-First Appellate Authority, Nagar Panchayat, Ratanpur, District Bilaspur, Chhattisgarh
4. Public Information Officer, Nagar Panchayat, Ratanpur, District Bilaspur, Chhattisgarh
5. Mahendra Kumar Dubey, S/o. Deviprasad Dubey, R/o. Ward No.4, Ratanpur, District Bilaspur, Chhattisgarh

----Respondents

For Petitioner	:	Mr. V.A. Goverdhan, Advocate
For respondent No.1	:	Mr. Shyam Sunder Lal Tekchandani, Advocate
For State	:	Mr. Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****05/07/2018**

1. The challenge in the present writ petition is to the order (Annexure P/1) dated 05.08.2011 passed by the respondent No.1 (State Information Commission) wherein they have passed an order imposing some penalty against the petitioner of Rs.25,000/-.
2. The main ground that has been raised by the petitioner in the instant case is that before imposing the order of penalty by the respondent No.1, no opportunity of hearing was afforded and the impugned order stands passed without compliance of the basic principles of natural

justice. He further submits that once when the respondent No.1 was of the view that it was the petitioner who was at default in providing the information at the appropriate time, the least that was expected was to call upon the petitioner and to give an opportunity of hearing and thereafter pass an appropriate order.

3. The counsel for the petitioner refers to proviso of Section 20 of the Right to Information Act 2005 in this regard. He further argued that even otherwise the effect of the impugned order would be that of an order with a stigma being passed against the petitioner and an order which has been passed without the petitioner being noticed at any point of time on the said issue.
4. The aforesaid factual matrix of the case so far as the imposition of the penalty against the petitioner and the fact that an opportunity of hearing was not granted to the petitioner is not disputed by the counsel for the respondents.
5. It is by now a settled position of law that any action which an authority intends to pass and which has an adverse civil consequence, the least that is excepted is that the authority should provide a reasonable opportunity of hearing to the concerned person before he is penalized.
6. In the instant case, inspite of the fact that the respondent No.1 is a quasi judicial body and the procedure as regards the manner in which the authority have to proceed and decide is also clearly spelt out under the Right to Information Act. it was incumbent upon the respondent No.1 to ensure that the petitioner is called upon before the impugned order was passed.

7. In view of the aforesaid factual matrix of the case, this Court is of the opinion that impugned order is not sustainable and the same deserves to be and is accordingly set-aside and the matter stands remitted back to the respondent No.1 for a fresh adjudication of the appeal preferred by the respondent No.5. The respondent No.1 may issue a suitable notice to the petitioner for providing an opportunity of hearing, thereafter proceed and decide the matter by passing an appropriate order afresh.
8. The writ petition accordingly stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved