

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 875 of 2012**

Dr. D.N. Suryavanshi, S/o. Late Fagu Ji Suryavanshi, aged about 58 years, presently posted and working as Principal/Public Information Officer, in Seth R.C. S. Arts and Commerce College, Durg, District Durg (C.G.)

---- Petitioners**Versus**

1. State Information Commission, through : The Secretary, State Information Commission, Nirmal Chhaya Bhawan, Geetanjali Nagar, Raipur, District Raipur (C.G.)
2. State Information Commissioner, State Information Commission, Nirmal Chhaya Bhawan, Geetanjali Nagar, Raipur, District Raipur (C.G.)
3. Shri K.R. Verma, C/o Shri Aditya Narayan Verma, Arya. Nagar, Kohka, Bhilai Sirsa Road, Durg, Distt. Durg (C.G.)
4. Public Information Officer, Directorate of Higher Education, Science College Campus Raipur, Distt. Raipur (C.G.)

---- Respondents

For Petitioner	:	Mr. Sunil Sahu, Advocate.
For Respondent No.1	:	Mr. Shyam Sunder Lal Tekchandani, Advocate.
For Respondent No. 3	:	Mr. Basant Dewangan, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****16/07/2018**

1. This writ petition is directed against the order dated 5.12.2011 passed by State Information Commission imposing maximum penalty of Rs.25,000/- under Section 20(1) of the Right to Information Act, 2005 (henceforth "Act, 2005") and also imposing cost of Rs.5,000/- towards damages under Section 19(8) of Act, 2005 upon the petitioner.

2. Learned counsel appearing for the petitioner would submit that on 4.8.2011, petitioner had gone to Mumbai for treatment of her wife as she was suffering from Cancer and at that time, the adjournment was sought but no time was granted and the case is fixed for orders on 4.8.2011 and ultimately the order was passed imposing penalty and damages upon the petitioner without giving reasonable opportunity of hearing to him, which is bad and unsustainable in law.

3. Per contra, counsel for the respondents would support the impugned order.

4. I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also went through the record with utmost circumspection.

5. It is apparent from the record that on behalf of the petitioner, the time was sought on 4.8.2011 on the ground of illness of the petitioner's wife as the petitioner had gone to Mumbai for treatment of his wife, who was undergoing treatment for cancer but the time was not granted and the impugned order has been passed imposing penalty and damage, which is in breach of principles of natural justice and contrary to law as no reasonable opportunity was granted to the petitioner to defend his case by the State Information Commission.

6. Resultantly, the impugned order dated 5.12.2011 is set aside. The matter is remitted to the State Information Officer to hear the parties on imposition of penalty and damages and to pass fresh order in accordance with law expeditiously preferably within a period of three months from the date of receipt of certified copy of this order.

7. Accordingly, the writ petition is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)

Judge