

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No.701 of 2014**

Uttam Kumar Kothari @ Uttam Chand Kothari S/o Shri Gangu Ram Kothari, Aged About-44, R/o Village-Khairwahi, Post-Narrotola, Block-Daundi, P.S. Daundi, Tahsil & Distt.-Balod (CG)

----Petitioner**Versus**

1. Chhattisgarh Rajya Suchana Aayog, Through the Secretary, Chhattisgarh Rajya Suchana Aayog, Nirmal Chhaya Bhawan, Meera Datar Road, Shankar Nagar, Raipur (CG)
2. The Chief Information Officer, Chhattisgarh Rajya Suchana Aayog, Nirmal Chhaya Bhawan, Meera Datar Road, Shankar Nagar, Raipur (CG)
3. The State Information Commissioner, Chhattisgarh Rajya Suchana Aayog, Nirmal Chhaya Bhawan, Meera Datar Road, Shankar Nagar, Raipur (CG)
4. Akhil Bharatiya Halba Aadiwasi Samaj, Kshetriya Mahasabha Mukhyalaya (Badgaon), Balod (CG) Through the Mahamantri, Akhil Bharatiya Halba Aadiwasi Samaj, Kshetriya Mahasabha Mukhyalaya (Badgaon), Balod (CG)
5. The President, Akhil Bharatiya Halba Aadiwasi Samaj, Kshetriya Mahasabha Mukhyalaya (Badgaon), Balod (CG)

---- Respondents

For Petitioner	:	Mr.Jitendra Gupta, Advocate
For Res.No.1 to 3	:	Mr.Shyam Takchandani, Advocate
For Res.No.4 and 5	:	Mr.B.P.Singh, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****25/07/2018**

1. The petitioner sought certain information from respondents No.4 and 5, which was not given by the Public Information Officer and First Appellate Authority leading to filing of second appeal before the State Information Commission. The State Information Commission by its order dated 9.6.2009 directed respondents No.4

and 5 to provide information sought for by the petitioner, which was not granted leading to filing of Complaint No.943/2009, in which the State Information Commission on 11.9.2013 imposed damages of ₹1000/- against respondents No.4 and 5 under Section 19 (8) (b) of the Right to Information Act, 2005 (hereinafter called as 'RTI Act') and thereafter on 2.1.2014 order was passed by the State Information Commission that respondents No.4 and 5 are not 'Public Authority' within the meaning of Section 2(h) of the RTI Act, therefore, order directing levy of damages was modified and held that respondents No.4 and 5 are not 'Public Authority', but directed payment of ₹ 1000/- towards expenses incurred. Challenging the order dated 2.1.2014 passed by the State Information Commission, this writ petition has been filed by the petitioner herein.

2. Learned counsel for the petitioner would submit that the State Information Commission being *quasi-judicial* authority has no power and jurisdiction to review its own order, therefore, the impugned order is liable to be set aside.
3. On the other hand, learned counsel for the Commission and private respondents would support the impugned order.
4. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the records with utmost circumspection.
5. It is true that the State Information Commission has earlier directed respondents No.4 and 5 to provide information sought for by the petitioner holding to be 'Public Authority' within the meaning of Section 2(h) of the RTI Act, but in a complaint filed by the petitioner for execution of the said order, on 2.1.2014 the

State Information Officer by modifying its earlier order held that respondents No.4 and 5 are not 'Public Authority', therefore, no damages can be levied against them. The State Information Commission has reviewed its earlier order dated 9.6.2009 and held that respondents No.4 and 5 are not 'Public Authority', but the question as to whether the State Information Commission has power to review its own order has not been considered and without considering the same, the impugned reviewing order directing payment of damages has been passed, which is unsustainable and bad in law.

6. For the foregoing reasons, the impugned order dated 2.1.2014 passed by the State Information Commission is hereby set aside. The matter is remitted to the State Information Commission who shall consider and decide the question as to whether the State Information Commission has power to review its own order. The matter will be decided by the State Information Commission within a period of three months from the date of receipt/production of certified copy of this order. It is open for the parties to raise all issues before the said authority.
7. The writ petition is allowed to the extent indicated hereinabove.
No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-