

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6412 of 2010

Abhmanyu Sharma, S/o Sri Mosaheb Sharma, R/o Vill.- Sarthua, P.O.- Gingi,
P.S.- Hulasganj Ghosi, Distt.- Jahanabad, Presently Posted As Block
Panchayat Raj Officer, Bodh Gaya, Distt.- Gaya, The Then Gram Panchayat
Supervisor, Islampur Block, Islampur, Nalanda

... .. Petitioner

Versus

1. The State of Bihar.
2. The State Information Commission, through the Chief Information Commissioner, Bihar Soochna Bhawan, 3rd Floor, Bailey Road, Patna
3. Sri Bhola Pahari Arya, Secretary Jeevan Sudha Manch, Sherpur Bazar, (Near Khanchi Gali), Bihar Shariff, Nalanda
4. Sri Rajeeve Ranjan, the then Public Information Officer-Cum-Block Development Officer Islampur, Distt.- Nalanda, Presently Posted as Circle Officer, Barhara Kothi, Distt.- Purnea

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Shree Ganesh, Advocate
For the Respondent/s	:	Mr. Sanjay Kumar, AC to AAG-3
For the State Information Commission.	:	Mr. Lalit Kishore, Sr. Advocate Mrs. Binita Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

7 03-05-2019 Heard learned counsel for the petitioner and learned
counsel appearing for the State Information Commission.

Petitioner has challenged the order dated 19.01.2009
passed in Appeal No. 2751 of 2007-08 on the simple ground that
petitioner is not a Public Information Officer and, therefore, the
order imposing fine, in purported exercise of power under
Section 20 Sub-section (1) or Sub-section (2) of the Right to
Information Act, is totally without jurisdiction. Section 20 (1)



(2) of the R.T.I. Rules reads as follows:-

“(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: 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.

(2) 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 and persistently, failed 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 recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.”

Admittedly, petitioner is not Public Information Officer and as such Section 20 Sub-section (1) or (2) is not attracted in the case and as such the compensation of fine of Rs. 25,000/-



against this petitioner is totally without jurisdiction and the same is quashed.

If the fine is already realized by the respondent, the same shall be refunded to the petitioner within a period of four months from the date of production/receipt of a copy of the order with the aforesaid.

The writ application stands disposed of.

(Anil Kumar Upadhyay, J)

R.Ranjan/Mukesh

U			
---	--	--	--

