

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 7976 of 2011**

- Rajesh Kumar Patel S/o Shri Ramsharan, aged about 40 years, By Caste Kurmi, Vill.- Salva, Tahsil Manendragarh, Distt.- Koriya

---- Petitioner**Versus**

1. Chief Information Commission through its Commissioner Nirmal Chaya Bhawan Mira Datar Road, Shanker Nagar, Raipur
2. First Appellate Officer, Office of Chief Medical and Health Officer, Distt Koriya, Baikunthpur
3. The Public Information Officer, Chief Medical and Health Officer, Distt. Koriya Baikunthpur

---- Respondents

For Petitioner	:	Shri Shalvik Tiwari, Advocate
For Respondent No.1	:	Shri Shyam Sundar Lal Tekchandani, Advocate
For Respondents/State	:	Shri Sudeep Verma, Dy. GA

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****13/09/2019**

1. Heard.
2. The present petition has been filed for the following reliefs:-
 - i. The Hon'ble Court may kindly be please to direct the respondents to supply the complete certified information of point no.3 as per the application (Annexure P/1).
 - ii. The Hon'ble Court may kindly be please to direct the respondents to pay the penalty @ Rs.250 per day from the date of application till the information is supplied to the petitioner.
 - iii. The Hon'ble Court may kindly be please to call the entire record of

the petitioner cases.

- iv. Any other relief which this Hon'ble Court deems fit and proper under the facts and circumstances of the case and in the interest of justice and cost of the petition may be awarded in favour of the petitioner.

3. Learned counsel for the petitioner would submit that the petitioner sought an information on 28.03.2009 vide Annexure P-1, wherein the information was sought for that in the primary health centre Banji, Khogapani, Behrasi, Banjaridad, Bhaiswar and other primary health centers different amount were received by the Chief Medical & Health Officer, District Korea, the particulars of the amount so received and the date thereof was sought for. The second information was sought for in the primary health center as to what equipments were purchased for how many amount? The third information was with respect to the copy of the cash-book from November, 2008 till 28.03.2009 i.e. the date of application. It is stated that thereafter no information was provided to the petitioner within a period of 30 days from such request. It is further stated that thereafter the petitioner preferred an appeal under Section 19 (1) of the Right to Information Act, 2005 (for short 'the Act, 2005') vide Annexure P-2 on 29.04.2009. The said appeal also remained unanswered or undecided for a period of 45 days and lastly the second appeal was filed before the Commission under Section 19 (3) of the Act, 2005 on 28.05.2009. It is further contended that thereafter the Commission directed the respondent No.3 to provide certified copy of the required documents. Pursuant to which, though the copy was provided but they were not certified. Therefore, the letter was addressed by the petitioner to the Commission on 15.11.2009. The Commission thereafter finally on 24.02.2010 during the hearing observed that the certified copy should be supplied to the petitioner. It is stated that finally all the documents were provided on 03.02.2011. It is further stated that from the date of initial

application on 28.03.2009 till the final documents/information was supplied it was on 03.02.2011, therefore, approximately it caused 23 months delay. Therefore, the penalty as required under sub-section (1) of Section 20 of the Act, 2005 should be imposed on the respondents. Learned counsel for the petitioner submits that even copy of the cash-book which were given, their serial numbers were disturbed. As such, the petitioner could not trace the origin of it. So appropriate orders as per prayer made be passed.

4. Respondent No.1 is represented through Shri Shyam Sundar Lal Tekchandani, learned counsel and respondents No.2 & 3 are represented by Shri Sudeep Verma, Dy. GA for the State.
5. Learned counsel for respondent No.1 has produced copy of the entire proceeding of the second appeal.
6. The perusal of the record shows that the initial application seeking information was made under Section 6 of the Act, 2005 on 28.03.2009. Admittedly, it appears that within 30 days as contemplated under sub-section (1) of Section 7 of the Act, 2005, no information was supplied. Consequently, it led to filing of an appeal under Section 19 (1) of the Act, 2005 vide Annexure P-2 on 29.04.2009. The said appeal also remains undecided even for a period of 45 days as required under sub-section (6) of Section 19 of the Act, 2005. Therefore, the second appeal was filed on 28.05.2009 (Annexure P-3).
7. The copy of the order-sheet of the Information Commission of second appeal would reveal that after filing of the second appeal, the notices were issued and when the case came up for hearing on 20.04.2010, the respondent Nos.2 & 3 submitted that the information has been supplied and it was objected by the

petitioner/appellant therein that the documents were not certified. Subsequently, the Commission directed to make available the certified copy of the documents within 15 days. On 24.02.2010 the case was fixed for 03.06.2010. When order-sheet of 29.06.2010 is perused it shows that the parties appeared and the certified copies were given to the petitioner. Thereafter, the case was fixed for final hearing. The order-sheet of 07.09.2010 would show that the appeal was taken up through video conferencing. On that date the appellant Rajesh Kumar was absent and on behalf of department R.K. Sharma, CMHO was present. It was stated that the information has been given to the petitioner before 06.05.2009 and apart from that 163 pages information has also been given. It was further stated by the respondent that the appellant would be free to inspect the documents which are available in their office. It was contended that though the petitioner was called, but he failed to appear, however, the copy of the cash-book from November, 2008 to March, 2009 were given. Subsequent order-sheet of 09.11.2010 would show that the case was again taken up by video conferencing, on that date the appellant stated that the copy of the one cash-book has been given, however, few of the copies were given twice that too with lot of discrepancies.

8. The order sheet reflects that information officer contended that since copy of cash-book pertains to different purchases, as such there might have been chances of discrepancies and assured that further clarification would be made before the next date of hearing. On the next date of hearing on 28.12.2010 the appellant and the respondent represented and eventually it was directed by the Commission that before the next date of hearing on 03.02.2011 all the documents may be verified/tallied and thereafter be given to the appellant before the camp Court is organized on 03.02.2011. On 03.02.2011 finally it was

recorded that all the required documents has been given to the appellant and the case was closed. On the final date of closure both the appellant and the representative of the respondent were present before the Commission.

9. When the entire facts with order-sheets of second appeal are examined it shows that the information as sought for were supplied to the petitioner quite late. The entire series of fact would show that the application seeking information was given on 28.03.2009 by the petitioner, which was not supplied within the stipulated period of 30 days as contemplated under Section 7 (1) of the Act, 2005, which led to filing of appeal. The first appeal which was preferred under Section 19 (1) of the Act, 2005 was not decided as per Section 19 (6) of the Act, 2005 within a period of 45 days, which led to filing of second appeal on 28.05.2009. During the pendency of the second appeal, certain documents were given intermittently. The appellant though was supplied with information but was not satisfied and therefore, the commission directed to supply the correct documents, which was agreed by the respondent. Eventually, the supply of requisite information was finally concluded on 03.02.2011 to the satisfaction of the petitioner. Therefore, the entire course would reveal that there has been almost delay of 23 months with respect to the information sought for and eventually satisfaction arrived by seeker. Section 20 (1) of the Act, 2005 is about the penalty, which purports that if the information is not provided or is incomplete or misleading or obstructed in any manner, the Commission may impose the penalty of Rs.250/- each day till the application is received or information is furnished, however, the penalty shall not exceed Rs.25000/-.

10. Admittedly, in this case, up till the filing of the second appeal, no information

was supplied, however, the information when was supplied i.e. the copy of the cash-book, the petitioner contended that one copy was supplied twice. The commission therefore, on such examining the fact has directed to supply the certified copy of the cash-book. The days rolled by and eventually the final satisfaction arrived on 03.02.2011. Admittedly, there is considerable delay of about 23 months. The statutory requirement under sub-section (1) of Section 20, the legislation has used the word 'shall' for imposing penalty. However, the outer limit has been fixed of Rs.25000/-. In this case since the delay has been caused of about 23 months, as a result, the respondents No.2 & 3 would be required to pay penalty of Rs.25000/-, which may be imposed under sub-section (1) of Section 20 of the Act, 2005. In a result, it is directed that since the information was not provided as per the requirement of the statute, the respondent No.3 would be required to pay an amount of Rs.25000/- which shall be deposited with the treasury within a period of three months from the date of receipt of copy of this order.

11. Accordingly, the petition is allowed.

Sd/-

Goutam Bhaduri
Judge