

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1084 of 2013**

1. State Of Chhattisgarh Through The Secretary, Department Of Forest Mantralaya, Mahanadi Bhawan, Naya Raipur, Post And Police Station Mandir Hasod Raipur, Chhattisgarh
2. The Conservator Of Forest Raipur Circle, Distt. Raipur C.G.
3. The Public Information Officer/ Divisional Forest Officer, Forest Division Dhamtari District Dhamtari C.G.

---- Petitioners**Versus**

1. Chhattisgarh State Information Commission Through The Commissioner, C.G. State Information Commission, Nirmal Chhaya Bhawan, Mira Datar Road, Shankar Nagar, P.S. Civil Lines Raipur C.G.
2. The Deputy Secretary State Information Commission C.G. Nirmal Chhaya Bhawan, Mira Datar Road, Shankar Nagar, P.S. Civil Lines Raipur C.G.
3. Shri Sheel Bhadra R/o Ward No. 3 Aadarsh Nagar, Kawardha, P.S. Kawardha Tahsil And Distt. Kabirdham C.G.

---- Respondents

For Petitioners/ State	:	Shri Sudeep Verma, Dy. G.A.
For Respondent No. 1 & 2	:	Shri Shayam Sundar Lal Tekchandani, Advocate
For Respondent No. 3	:	None

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****24/06/2019**

1. Heard.
2. The present petition is against the order dated 06/12/2012 passed by the Chhattisgarh State Information Commission, Raipur. The main grievance of the petitioner is against the

imposition of penalty of Rs 20,000/- imposed under Section 21 of the Right to Information Act, 2005 (hereinafter referred as '*the Act of 2005*') and Rs 1,000/- passed under Section 19 sub section 8 (b) of the Act, 2005.

3. The facts and figures as would enumerate would show that an application was made whereby certain documents along with information was sought for from Public Information Officer/ Divisional Forest Officer, Dhamtari. The said application was received by officer on 13/03/2012. Subsequent thereto, the information was not given within the stipulated period of 30 days which led to first appeal. Thereafter, the Information Officer by a letter dated 10/04/2012 asked the respondent No.3 to deposit an amount of Rs. 6,406/- being the expenses to be deposited to get the information sought for. The said amount was deposited by the respondent on 16/04/2012, thereafter, the information was given to the respondent No.3 on 18/05/2012. The complainant who sought for the information filed a second appeal, which was adjudicated by the impugned order whereby the imposed penalty and the damages has been ordered for.
4. Learned counsel for the State would submit that the information so sought for though has been ordered, the order is non-speaking one. Further the penalty has been imposed beyond the statutory limit, therefore, the illegality has occurred. He further submits that despite the fact that the information was supplied to the bulk of documents, the amount so imposed by penalty is illegal, which is required to be set aside.

5. Per contra, the learned counsel for respondent No.1 & 2 supported the order and would submit that the order is well merited which do not call for any interference.
6. No representation is made on behalf of respondent No.3 despite the service of notice.
7. Heard the learned counsel appearing for the parties.
8. It is not in dispute that the respondent No.3 sought certain information i.e. covering memo, challan etc to the Public Information Officer/ Divisional Forest Officer on 06/03/2012 which was received on 13/03/2012. Thereafter the information was not supplied within the stipulated period as contemplated under Section 7 sub-section 1 of the Act, 2005 which led to filing of the first appeal. The first Appellate Authority under the Act directed to provide for the information sought for. Thereafter a demand was sought for by the petitioner department under sub-section 3 of Section 7 of the Act, 2005 on 10/04/2012 by Annexure P-4 and a demand of Rs. 6,406/- was made. The said demand was fulfilled by deposit of the amount on 16/04/2012 by the respondent and challan of Rs. 6,406/- was paid which was informed by Annexure P-5 and was received by the department on 24/04/2012. The information was finally supplied on 18/05/2012 by Annexure P-8. Thereby in between the information sought for and supplied for there is 13 days of delay.
9. The relevant Section of the Act of 2005 which has relevance in the matter is reproduced herein Section 7 (1) of Act of 2005 which mandates the supply of information within a period of 30 days reads as under :

7. Disposal of request -

(1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

10. Likewise, sub-section 3 of Section 7 which gives the exemption of time of demand of money to supply the information of the documents and the money actually paid thereof in between to be calculated as per Section 7 (1) of the Act of 2005, the same is reproduced here under:

(3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be shall send an intimation to the person making the request, giving-

(a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section;

(b) information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

11. The facts would reveal that the information application was

received by the petitioner on 13/03/2012 and finally the information was eventually given on 18/05/2012 thereby there had been a 65 days gap in between the information sought for and the information supplied. In the meanwhile, the information which was sought for which was in bulk, amount was asked for and a demand was made to the petitioner by a letter dated 10/04/2012 and pursuant thereto the amount was deposited and was eventually informed to the petitioner on 23/04/2012 whereby 13 days were availed by the respondent as per Section 7 (3) of the Act of 2005. This necessarily would be excluded from the counting of period of 30 days, which is been contemplated under sub-section 1 of Section 7 of the Act of 2005. The final information as sought for have been given on 18/05/2012. Thus the Statutory permissible limit of 30 days would be required to be reduced as per Section 1 of Section 7 of Act. So after deducting the same from 65 days, there would be a delay of 35 days. Further the period as spent u/s 7 (3) of Act would be of 14 days, this also required to be deducted for 35 days as above. Finally, it would show that there has been a delay of 21 days in providing the information which was sought for.

12. Sub Section 8 (b) of Section 19 reads as under, which allows the Information Commissioner to compensate for any loss or any detriment suffered which reads as under:

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

13. Likewise the penalty for the delay under Sub Section 1 of Section 20 reads as under:-

Penalties. - (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.

14. The order impugned has imposed a penalty of Rs 20,000/- for the delay caused whereas sub Section 1 of Section 20 mandate that if the information is delayed as specified under sub Section 1 of Section 7, the Commission shall be within their power to impose the penalty of Rs. 250/- each day for the delay in between the application received and information furnished. Since there was a delay of 21 days as such by calculating with Rs. 250/- per day the penalty would be of Rs. 5,250/-.
15. Accordingly, it is directed that the penalty of Rs. 20,000/- has been reduced to Rs. 5,250/-. Further in respect of compensation of Rs. 1,000/- which has been given to the complainant as compensation under Section 19 Sub Section 8 (b). In the considered opinion of this Court, the same appears to be reasonable and not exorbitant which warrants any interference. In a result the order dated 06/12/2012 is modified to the extent that the penalty of Rs. 20,000/- is

reduced to Rs. 5,250/- where as the compensation paid to the respondent of Rs. 1,000/- is upheld. The consequence of the order shall follow.

16. Accordingly, the writ petition stand partly allowed.

Sd/-
Goutam Bhaduri
Judge

Jyoti