

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2002 of 2019**

- Kuldeep Singh Chawla S/o Late Hari Singh Chawla Aged About 63 Years R/o Opposite Gaurav Hotel, Ambedkar Chok, Baloda Bazar, District Balodabazar - Bhatapara, Chhattisgarh

---- Petitioner**Versus**

1. Chhattisgarh State Information Commission Atal Nagar, District Raipur Chhattisgarh
2. First Appellate Officer, Assistant Engineer Chhattisgarh State Power Distribution Company Limited, Baloda Bazar Bhatapara Chhattisgarh.
3. Information Officer, Junior Engineer, Chhattisgarh State Power Distribution Company Limited, Baloda Bazar, District Balodabazar - Bhatapara Chhattisgarh
4. Bhagwati Das Agrawal S/o Late Rishikesh Agrawal Aged About 64 Years R/o Ambedkar Chowk, Baloda Bazar, District Balodabazar - Bhatapara Chhattisgarh

---- Respondents**WPC No. 2070 of 2019**

- Public Information Officer Junior Engineer, Chhattisgarh State Power Distribution Company Limited, Baloda Bazar, District Baloda Bazar Bhatapara Chhattisgarh

---- Petitioner**Versus**

1. Chhattisgarh State Information Commission Atal Nagar, District Raipur Chhattisgarh
2. First Appellate Officer Assistant Engineer, Chhattisgarh State Power Distribution Company Limited, Baloda Bazar, District Baloda Bazar Bhatapara Chhattisgarh
3. Bhagwati Das Agrawal S/o Late Rishikesh Agrawal Aged About 64 Years R/o Ambedkar Chowk, Baloda Bazar, District Baloda Bazar Bhatapara Chhattisgarh
4. Kuldeep Singh Chawla S/o Late Hari Singh Chawla Aged About 63 Years R/o Opposite Gaurav Hotel, Ambedkar Chowk, Baloda Bazar, District Baloda Bazar Bhatapara Chhattisgarh

---- Respondents

For Petitioner In WPC No.2002 of 2019	:	Shri Sachin Singh Rajput, Advocate
For Petitioner in WPC No.2070 of 2019	:	Shri Shashank Thakur, Advocate
For Respondent No.1	:	Shri Shyam Sunder Lal Tekchandani, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

02/07/2019

1. Both these cases are heard and decided together as arising out of the common order dated 09.04.2019 (Annexure P-1).
2. Shri Sachin Singh Rajput, learned counsel for the petitioner in WPC No.2002 of 2019 would submit that short question is involved in these cases are that a third party information was sought for by the respondent Bhagwati Das Agrawal, wherein initially on 12th of February, 2018, the said information was disallowed. Thereafter, being aggrieved by such order the said respondent Bhagwati Das Agrawal preferred first appeal on 06.04.2018 under Section 19 of the Right to Information Act, 2005 (hereinafter referred to as the Act, 2005). The memo of such appeal would reflect that the information against the petitioner namely Kuldeep Singh Chawla which was sought for, he was not made a party. The orders were passed on 16th of April, 2018 dismissing the first appeal and the order of the Public Information Officer was upheld at the motion stage. Against which a second appeal was preferred by the respondent Bhagwati Das Agrawal on 03.07.2018, wherein the impugned order dated 09.04.2019 is passed. He would further submit that as per Section 19 (4) of the Act, 2005 since the information was sought for against the petitioner namely Kuldeep Singh Chawla

in first appeal, when the appeal is preferred he ought to have been made a party and should have been heard, therefore, in absence of the same the order of the second appeal passed by the Chhattisgarh State Information Commission cannot be acted upon.

3. Shri Shashank Thakur, learned counsel for the Public Information Officer, supports the contention of the petitioner Kuldeep Singh Chawla and the petition WPC No.2070 of 2019 is also on the same ground.
4. Perused the documents. Admittedly on the information sought for by respondent Bhagwati Das Agrawal, initially the information was not allowed to be supplied, against which an appeal was preferred by the said respondent under Section 19 of the Act, 2005.
5. Section 19 (4) of the Act, 2005 reads as under :-

“Section 19(4) in The Right To Information Act, 2005.-

(4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be shall give a reasonable opportunity of being heard to that third party.”

6. Perusal of the memo of appeal would show that since information sought for was in respect of the third party, the petitioner Kuldeep Singh Chawla was not heard, though the appeal was dismissed. The second appeal was preferred that too without impleadment of Kuldeep Singh Chawla, the third party. The second appeal was allowed and the provisions of Section 19 (4) of the Act, 2005 was virtually sidelined. Therefore, under the circumstances of the case, it is directed that the order dated 09.04.2019 (Annexure P-1) serious flaw has been committed as the person i.e. the petitioner Kuldeep Singh Chawla, who

was a third party and against whom the information was sought for was not heard which was mandatory under Section 19 (4) of the Act, 2005. Consequently, the order dated 09.04.2019 is set aside. The matter is remanded to the appellate authority with a direction that the respondent Bhagwati Das Agrawal, if so desire, may prosecute his appeal after compliance of Section 19 (4) of the Act, 2005. It is directed that the appellate authority shall communicate this order to respondent Bhagwati Das Agrawal.

7. With the aforesaid observation, both the writ petitions stand disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu