

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (C) NO. 4414 OF 2019**

- Pushpa Kiran Kujur, W/o A. Kujur, aged about 47 years, posted as Project Officer, Gaurela, Pendra Road, Women and Child Development Department, Bilaspur, District Bilaspur (CG)

... Petitioner**versus**

1. Chhattisgarh State Information Commission, through Chief Information Commissioner, District Raipur (CG)
2. District Programme Officer, Women and Child Welfare Department (1st Appellate Authority), District Bilaspur (CG)
3. Project Officer, Integrated Child Development Scheme, Belha, District Bilaspur (CG)
4. Naresh Kaushik, R/o Ward No.8, Shitala Mandir, Rajendra Nagar, District Bilaspur (CG)

... Respondents

For Petitioner	:	Mr. Anup Majumdar, Advocate.
For Respondents 1, 2 & 3	:	Mr. Ishan Verma, Panel Lawyer.
For Respondent 4	:	Mr. S.S.L. Tekchandani, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****04/12/2019**

1. Challenge in the present writ petition is to the order dated 23.8.2019 passed by respondent no.1 in Second Appeal No. A/4103/2017/Bilaspur preferred by respondent no.4.
2. Challenge to the impugned order is to the extent of the petitioner being held liable for paying an amount of Rs.23,000/- on account of alleged loss caused to the government in the process of providing information to respondent no.4 under the provisions of the Right to Information Act, 2005 (hereinafter referred to as "the RTI Act") free of cost.
3. The primary contention of the petitioner is that the impugned order passed by respondent no.1 is in total contravention of the statutory provisions as is envisaged under Section 20 of the RTI Act. According to the petitioner, Section 20 of the RTI Act clearly stipulates the procedure, to be adopted by respondent no.1 before penalties are imposed. In the instant case, neither was the petitioner made a party to the proceeding nor was she called upon by the respondent no.1 before she was held responsible for the said payment of cost.

4. This contention of the petitioner has not been disputed so far as the counsel appearing for respondents are concerned.

5. Given the said facts, it would be relevant at this stage to refer to the provisions of Section 20 of the RTI Act, which are reproduced herein under:

“20. 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:

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.”

6. A plain reading of the impugned order would further clearly demonstrate that the petitioner herein was not a party in the second appeal nor was she ever called upon by the second appellate authority before passing of the impugned order dated 23.8.2019. The respondent no.1 was incumbent to call upon the petitioner giving her a reasonable opportunity to explain and thereafter should have passed an order of penalty.

7. Under the aforesaid provisions of law, this Court is of the firm view that the impugned order so far as holding the petitioner liable to compensate the alleged loss caused to the State Government is concerned, is bad in law and is not sustainable. The impugned order so far as holding the petitioner liable for the said payment of Rs.23,000/- is therefore set aside/quashed.

8. Without expressing any opinion so far as the remaining part of the impugned order is concerned, the writ petition stands allowed to the aforesaid extent.

/sharad/

Sd/-
(P. Sam Koshy)
JUDGE