

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.33 of 2013

ORDER:

This writ petition is disposed of at the stage of admission with the consent of the learned counsel for the respective parties.

This writ petition is filed seeking the following relief :-

“..... to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the impugned orders passed by the 1st respondent i.e., A.P. State Information Commissioner, HACA Bhavan, Hyderabad in Appeal No.731 of SIC-PVB/ 2010 dated 20.09.2012 is illegal and void and opposed to Articles 14, 19 and 21 of the Constitution of India including the provisions of Section 19 (3), Section 20 (1) of Right to Information Act, 2005 and set aside the same.....”.

Heard Mr.M.Srinivasa Rao, learned counsel for the petitioner and the learned Government Pleader for Co-operation.

It has been contended by the petitioner that the 1st respondent has passed impugned order on 20.09.2012 imposing the penalty of Rs.10,000/- against the petitioner under Section 20(1) of the Right to Information Act, 2005 (for short 'the Act'). In the impugned order, the 1st respondent has not discussed as to how the penalty was quantified at Rs.10,000/-. As per Section 20(1) of the Act, the 1st respondent can impose penalty of Rs.250/- per day for the delay in not furnishing the information. But, in the instant case, no adjudication has been done by the 1st respondent as to the number of days delayed in furnishing information. Admittedly, the 4th respondent has submitted an application on 28.10.2009 and the delay is to be calculated only after expiry of the prescribed period of thirty days, but the 1st respondent has not discussed as to how

many days delay was caused in furnishing information to the 4th respondent and mechanically imposed a penalty of Rs.10,000/- without there being any adjudication as to the number of days delayed in terms of Section 20(1) of the Act. Therefore, the learned counsel submits that the impugned order is liable to be set aside, since the same was passed without any adjudication as to the number of days delayed in furnishing information to the 4th respondent. The petitioner has specifically pleaded before the 1st respondent that he is not the person concerned to furnish information to the 4th respondent and the matter was entrusted to some other person in the Department, but technically the name of the petitioner was shown as Public Information Officer. He, therefore, contended that the matter may be directed to be remanded to the 1st respondent for fresh adjudication and to pass a reasoned order after giving an opportunity of hearing to the petitioner.

Learned Government Pleader appearing for the respondents submits that every opportunity was given to the petitioner before passing the impugned order by issuing a show-cause notice proposing to impose penalty of Rs.25,000/- and only after receiving explanation from the petitioner, the 1st respondent imposed the penalty of Rs.10,000/-. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that the 1st respondent has passed the impugned order without giving any reasons for quantifying the penalty at Rs.10,000/- and without going into the aspect of number of days delayed in

furnishing the information. Therefore, the impugned order is liable to be set aside and it is accordingly set aside, as the same is contrary to Section 20(1) of the Act and the matter is remanded to the 1st respondent for fresh consideration and for passing appropriate orders, in accordance with law, after giving an opportunity of hearing to the petitioner.

With the above observations, this writ petition is allowed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 30-01-2020
Prv



