

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.474 of 2019

In
Civil Writ Jurisdiction Case No.5815 of 2017

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1. The State of Bihar
 2. The Principal Secretary General Administration Department, Govt. of Bihar, Patna
 3. The Additional Secretary General Administration Department, Govt. of Bihar, Patna

... .. Appellants

Versus

Manoj Kumar S/o Sri S. S. Chaudhary Resident of at P.o.- Surajgarha, Distt.- Lakhisarai, presently posted as Officer on Special Duty, Bihar State Staff Selection Commission, Patna

... .. Respondent

Appearance :

For the Appellant/s	:	Mr. Uday Kumar, Advocate Mr. Maya Nand Jha, Sr. Counsel
For the Respondent/s	:	Mr. Praveen Kumar Singh, Sr. Panel Counsel Mr. Rakesh Kumar Sinha, CGC

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

3 12-07-2022 None appears for the appellants.

Heard I.A. No. 01 of 2019 has been filed for
condonation of delay of 155 days in filing the appeal.

For the reasons stated in the application and affidavit
the delay of 155 days in filing the appeal is condoned.

Heard on merit.

The matter is taken up for final disposal. The



respondent was punished on the alleged charge that as a Appellate Authority under RTI Act he has failed to furnish information within the stipulated period. The learned Single Judge in paragraph nos. 4 to 8 held as under

“4. Learned counsel for the petitioner submits that an appeal for giving information under the Right to Information Act was filed on 24.08.2011, after two years, the petitioner has joined the post as S.D.O. i.e. on 18.4.2013, inasmuch as, the S.D.O. is not the appellate authority under the Right to Information Act to entertain the appeal, it is the Block Development Officer, Piro, who is the appellate authority to entertain the appeal, if any, filed, hence, the action of punishment is not sustainable under the law.

5. Learned counsel for the State submits that in the proceeding the petitioner has not denied that he was not the appellate authority, rather he has accepted that he was the appellate authority, now he cannot be allowed to turn round and make submission that at the relevant time he was not the appellate authority under the Right to Information Act.

6. the original authority and the appellate authority are notified by the Government of different departments, which is annexed as Annexure-3 to this writ petition, wherein it shows that in the case of Piro block the Block Development Officer, is the appellate authority.

7. Learned counsel for the Stte is not in a position to deny the statement made by the petitioner.

8. If the petitioner was not the appellate



authority, in such circumstance, he cannot be visited with any punishment on account of fact that he has failed to provide information under the Right to Information Act. The petitioner cannot be inflicted any such punishment for the act which is not being authorized to carry out by him as under the Right to Information Act, only the authorized persons will be liable to supply the information, inasmuch as, the appeal was filed in the year 2011 and the petitioner has joined the post of S.D.O. after two years. A person can be punished when he has failed to discharge certain duties under the statutory provision, but the statutory provision itself stipulates that the petitioner is not the appellate authority but the other authority is the appellate authority”.

In the light of the aforesaid observation, Respondent-Manoj Kumar was not responsible for denial of information under RTI Act as an Appellate Authority. Assuming that Respondent- Manoj Kumar was an Appellate Authority under the RTI Act, in the event, the aggrieved persons was required to agitate before the Appellate Authority under the RTI Act and further he has a remedy before appropriate forum. In other words, if Manoj Kumar was identified as Appellate Authority under the RTI Act he was exercising quasi judicial function. The State-petitioners are not apprised anywhere that Respondent-Manoj Kumar deliberately withheld the information or not acted on the appeal.

In the light of the aforesaid facts and circumstances,



the appellants have not made out a case so as to interfere with the order of the learned Single Judge dated 01.08.2020 passed in C.W.J.C. No.5185 of 2013. Accordingly, the appeal stands rejected.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

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