

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.18449 of 2012

Nrusingha Behera

....

Petitioner

Mr. P. K. Tripathy, Advocate

-versus-

***Secretary to Government of Odisha,
Department of Information and
Public Relations, Bhubaneswar and
others***

....

Opposite Parties

Mr. P. K. Muduli, AGA and

Mr. B. K. Dash, Sr. Advocate State Information Commission

CORAM:

THE CHIEF JUSTICE

JUSTICE R. K. PATTANAİK

ORDER

27.06.2022

Order No.

03. 1. The challenge in the present petition is to an order dated 25th June, 2010 passed by the Orissa Information Commission, Bhubaneswar (OIC) imposing a penalty of Rs.25,000/- on the present Petitioner, who was an ex-Assistant Manager of the OSCS Corporation Limited, Bhawanipatna for causing a delay of more than 100 days in providing information to the Complainant (Opposite Party No.4) in Complaint Case No.1247 of 2008.
2. While issuing notice in the present petition on 17th October 2012, this Court stayed the operation of the impugned order.

3. Despite lapse of nearly 10 years after the issuance of notice, none of the Opposite Parties including the State Information Commission or Opposite Party No.4 has filed any reply.

4. The background facts are that the Opposite Party No.4 filed an application dated 4th February, 2008 with the Public Information Officer (PIO), Office of the Civil Supplies Officer, Kalahandi District, Bhawanipatna seeking information of the procurement of paddy during 2006-07 and other related issues.

5. On the ground he had not received any information, he filed a Complaint Case No.1247 of 2008 before the State Information Commission on 1st May, 2008.

6. The complaint petition was taken up for hearing on 22nd July, 2009 and then again heard on 24th July 2009, 9th March, 2010 and 17th May, 2010. It was ultimately heard on 25th June, 2010. It appears that the present Petitioner was appointed as PIO on 24th March, 2009 as per the order of the Collector & District Magistrate, Kalahandi. He states that he provided all information to the Complainant on 28th July 2009, which is within 4 months thereafter.

7. It was noticed by the OIC that the former PIO had received the Form-A application on 4th February 2008, and endorsed it to the Assistant Manager, OSCSC Limited, Bhawanipatna and the Dealing Assistant, Procurement (DA) on 5th February, 2008 and issued a reminder on 17th June, 2008. The information was received from the DA on 1st October, 2008 and given it to the Complainant on 28th July, 2009. Notice was issued to the

current Assistant Manager and the current Head Clerk. The response in the present petition was that due to decentralization of procurement and the work involved therein, he was overburdened and was unable to furnish the required information within time. However, the OIC was not satisfied with this explanation. The OIC then proceeded to impose the penalty as aforementioned.

8. In the present petition apart from pointing out that he was appointed as PIO only on 24th March, 2009 and was not responsible for not responding to the complaint case filed on 1st May, 2008, the Petitioner has also pointed out that there was inadequate staff available in the office at the relevant period and he was working as Assistant Manager, Accounts along with In-charge of all District Procurement Centers (DPCs). It is pointed out that the Kalahandi District is the 2nd biggest procurement district in Orissa where 25 lakhs quintals of paddy were being procured throughout the year and the Petitioner was managing all by himself the day-to-day office work as well as field transaction procurement affairs. The information sought related to procurement matters and it was to be collected from the field in the first instance. It is accordingly submitted that the delay was not intentional.

9. No counter affidavit has been filed by any of the Opposite Parties to contradict the above averments. If indeed the Petitioner was not the PIO at the time of filing of the complaint on 1st May, 2008 and was appointed as such on 24th March,

2009 then clearly the delay in furnishing the information had to be computed only from 24th March, 2009 and not earlier.

10. Also the explanation offered by the Petitioner for not being able to provide information in good time appears to be a plausible one that merits acceptance.

11. For all of the aforementioned reasons, the impugned order of the OIC is set aside and the writ petition is allowed, but in the circumstances, with no order as to costs.



(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

M. Panda