

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11948 of 2012

Prabhat Kumar Nanda

....

Petitioner

Mr. P.K. Nanda, Advocate

-versus-

***Central Information Commission, New
Delhi and others***

....

Opposite Parties

Mr. P.K. Parhi, A.S.G.I.

**CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAİK**

**ORDER
13.07.2022**

Order No.

03. 1. The challenge in the present petition is to an order dated 8th June 2012 passed by the Central Information Commission (CIC) whereby after finding that the Petitioner as the Central Public Information Officer (CPIO) of the Paradip Port Trust (PPT) had kept the RTI application with him first for 40days without taking any action and then after receiving the information took 38days to compile the information, the CIC held that for causing a total delay of 71days, a penalty of Rs.17,750/- @ Rs.250/- per day should be imposed on him.
2. This is the second round of litigation concerning the issue. In the first round, against an initial order dated 31st August 2009 of the CIC, the Petitioner had filed W.P.(C) No.14551 of 2009 in this Court. The said writ petition was disposed of on 9th August 2011, noting the plea of the Petitioner that his explanation had not been properly considered by the CIC. The said order dated 31st August 2009 of the CIC was quashed and the matter was remitted to the

CIC to reconsider the matter and dispose it of after giving an opportunity to the Petitioner and Opposite Party No.3 therein i.e., PPT to file their written notes.

3. In the second round, the CIC has by the impugned order reiterated that the Petitioner unreasonably delayed providing the information and imposed a penalty as indicated hereinbefore.

4. Mr. Nanda, learned counsel appearing for the Petitioner urges that PPT is a large organization having more than five thousand employees. His submission is that the plea of the Petitioner that being the administrative head of the organization, it was not possible for him to have attended to the RTI request earlier than when he did, has not been taken into account by the CIC. According to him, there are eight departments and at the time when the request was made, he was the only person dealing with all RTI requests. Only later on 10th September 2010, eight CPIOs were appointed and he was appointed as the Appellate Authority. He mentioned that the Petitioner has retired from service on 31st May, 2011.

5. The Court notes that all the above submissions have in fact been recorded by the CIC in para-8 of the impugned order. It is not as if therefore the CIC did not take into account the above factors.

6. The requirement is under Section 7 (1) of the RTI Act is that the CPIO should on receipt of a request “as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in

Sections 8 and 9". Under Section 20 (1) of the RTI Act, where the CIC is of the view that the CPIO "has, without any reasonable cause not furnished the information within the time specified under sub-Section 1 of Section 7, then the CIC "shall impose a penalty of Rs.250/- each day till the application is receipt or information is furnished so however the total amount of penalty shall not exceed Rs.25,000/-."

7. The attempt by the learned counsel for the Petitioner is to show that the CPIO in the present case had not acted unreasonably. However, the admitted factual position has been noted in para-12 of the impugned order as under:

"12. In the instant case the CPIO kept the RIT-application with him for more than 40 days without taking any action on it. When he sought the assistance from the holders-of-the-information, they were prompt in furnishing the replies to the CPIO and in fact, the CPIO received the information from the 5 holders-of-the-information during 01.07.2008 to 10.07.2008. In one case, the CPIO received the information on 18.07.2010. Even after receiving information from the last holder-of-the-information, the CPIO took 38 days to compile the information and forward it to the complainant. It is difficult to believe that the CPIO would take more than 1 month simply in compilation of the information received from the various holder-of-the-information. I do not find any reason or justification in the submissions given by the CPIO for delay in furnishing the reply to the complainant. It is seen that the total delay comes to 71 days (i.e., from the date of receipt of RTI-application on 16.05.2008 till the CPIO furnished a reply to the complainant on 25.08.2008. Therefore, a penalty of Rs.17,750/- for a delay of 71days @ 250/- per day, is imposed on Shri Prabhat Kumar

Nanda, the then CPIO & Ex-Secretary of Paradip Port Trust.”

8. There is no valid explanation offered by the Petitioner for the two-stage delay i.e., delay in seeking information from the information holders and then after that was received promptly again sitting on the information received and not disseminating it to the Applicant. The Court is satisfied that the CIC has taken into account all the factors mentioned in the submissions of the Petitioner including one made before this Court and the decision arrived at cannot be held to be erroneous.

9. Consequently, the Court finds no merit in the present writ petition and it is dismissed as such. The interim order passed earlier stands vacated.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Guin