

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 6440 OF 2022

Prabhakar Rana

....

Petitioner

In person

-versus-

B.K. Mohapatra and others

....

Opp. Parties

Mr. Bijaya Kumar Dash, Advocate
(For State Information Commission)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

21.12.2022

Order No.

5. 1. This matter is taken up through hybrid mode.
2. Heard Mr. Prabhakar Rana, the Petitioner in person and Mr. Bijaya Kumar Dash, learned counsel appearing for the State Information Commission.
3. Order dated 13th December, 2021 passed by the Odisha Information Commission, Bhubaneswar in Second Appeal No.252 of 2019 is under challenge in this writ petition, whereby an appeal filed by the Petitioner under Section 19(3) of the Right to Information Act, 2005 has been dismissed.
4. Mr. Rana, the Petitioner submits that he had made an application in Form-A to answer the query of the applicant, as to why the registered letter send by him in the address of the BDO, Bahanaga Block was refused. The Public Information Officer (PIO) did not respond to the same. Thus, the Commission should have directed the PIO to answer the same and also imposed penalty in exercising of power under Section 20(1) of the Act.

5. It is his submission that the Commission without relying upon any judgment of this Court as well as the Supreme Court, relied upon a decision of Bombay High Court and passed the order. Hence, the impugned order is not sustainable.

6. Mr. Dash, learned counsel for the Odisha Information Commission objecting to such submission contended that the law laid down by the Bombay High Court is squarely applicable to the case at hand. The said ratio reflects the correct position of law. Hence, the Commission has committed no error in dismissing the second appeal relying upon the said case law.

7. Considering the rival contentions of the parties and on perusal of the record, it appears that the Petitioner sought for information from the PIO to answer, as to why, the registered letter send by him in the address to BDO, Bahanaga Block was refused. The Bombay High Court in the case of **Dr. Celsa Pinto – v- The Goa State Information Commission**, reported in 2008 (110) Bom LR 1238 held as under:

“The definition cannot include within its fold answers to the question why which would be same thing as asking reason for a justification for a particular thing. The Public Information Authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information.”

8. In view of the aforesaid position of law, the Commission has committed no error in holding that the PIO is obliged under the Act to supply available and existing information to the Applicant. The PIO is not obliged to answer any query made by an Applicant in Form-A, information which is not existing and

available with him. The query made by the Petitioner does not come under the purview of the Act. As such the Commission has committed no error in dismissing the Second Appeal No.252 of 2019.

9. Accordingly, this writ petition being devoid of any merit stands dismissed.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge



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