

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No. 28884 OF 2022

Rabindranath Barik

....

Petitioner

Mr. G. K. Nanda, Advocate

-versus-

***State Information Commissioner,
Odisha and others***

....

Opp. Parties

Mr. Bijaya Kumar Dash, Advocate
(For Opposite Party No.1)

Mr. Nilamber Jena,
Standing Counsel for S & ME Department

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
06.12.2022**

Order No.

IA No.15915 of 2022

3.
 1. This matter is taken up through hybrid mode.
 2. This is an application for amendment of cause title of the writ petition.
 3. Learned counsel for the Petitioner submits that District Education Officer, Khordha, who is a necessary party, was inadvertently left out and this application has been filed to implead the District Education Officer, Khordha as Opposite Party No. 4 to the writ petition.
 4. Considering the submissions made by the learned counsel for the parties, the application for amendment is allowed. Consolidated cause title filed along with the I.A. shall be placed appropriately in the brief.
 5. The IA is disposed of.

(K.R. Mohapatra)
Judge

PTO

4. **W.P.(C). No. 28884 OF 2022**

1. The Petitioner in this writ petition seeks to assail the order dated 8th September, 2022 (Annexure -1) passed by the Odisha Information Commissioner in Complaint Case No. 265 of 2020, whereby a penalty of Rs.25,000/- has been imposed on him.

2. Mr. Nanda, learned counsel for the Petitioner submits that the Complaint Case was posted to 26th July, 2022 on which date, the Petitioner (PIO, office of D.E.O., Khordha) had sent an application for adjournment. Considering the same, the prayer of the Petitioner was allowed and the case was posted to 8th September, 2022 with an observation that if the written statement is not filed by the next date of hearing, action under Section 20 (1) of the RTI Act for imposition of penalty shall be taken against the Petitioner. It is submitted that although notices were issued on 10th August, 2022, as reveal from Para 6 of order under Annexure-1, but no notice whatsoever was served on the Petitioner. Thus, he could not know about the proceeding before the Commission. As such, he prays for an opportunity to file the written statement and contest the Complaint Case.

3. Mr. Dash, learned counsel for the Opposite Party No.1- State Information Commission, however, submits that in para 6 of the impugned order, it has been clearly recorded that the PIO (Petitioner) did not turn up in spite of valid notice.

4. Mr. Jena, learned Standing Counsel for the School and Mass Education Department submits that he has no instruction in the matter.

5. Taking into consideration the submissions made by the learned counsel for the parties, this Court is of the considered opinion that if the Petitioner assails the correctness of the recording made in the impugned order, he has to approach the said Court/Forum, which has recorded it. The said Court/Forum is competent to examine the same and pass necessary order.

6. In that view of the matter, writ petition is disposed of with an observation that in the event, the Petitioner files an application challenging the correctness of the observation made by the Commission with regard to service of notice on the Petitioner in paragraph-6 of the order dated 28th September, 2022 (Annexure-1) passed by the State Information Commission in Complaint Case No.265 of 2022 within a period of 15 days, it shall consider the same in accordance with law giving opportunity of hearing to the parties concerned.

7. Till disposal of the said petition, if filed within the stipulated period, as aforesaid, the impugned order (Annexure-1) shall be kept in abeyance.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge

Deepak