

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.845 of 2018

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Shahudul Haque S/o Late Israrul Haque, Resident of Haque Manzil, Nawab Kothi, P.O.- Digha Ghat, P.S.- Digha, District- Patna, PIN 800011, at present posted as Circle Officer, Bhadur Ganj, District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Awar Sachiv, State Information Commission, Fourth Floor, Suchana Bhawan, Bailey Road, Bihar, Patna.
3. The District Magistrate, Madhepura.
4. The Sub Divisional Officer, Udakishunganj, Madhepura.
5. The Circle Officer, Chausa, Madhepura.
6. Sri Gautam Kumar, Son of Buchkan Yadav, Resident of Village- Bhatgama, Via- Navgachiya, District- Madhepura- 853204.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shambhu Nath, Advocate
For State Information Commission : Binita Singh, Advocate
For the Respondent/s : Mr. Mritunjay Kumar AC to GA- 3

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

9 12-09-2023 Heard the parties.

2. The petitioner has moved before this Court for the
following relief:-

*(i) for quashing the Order dated
30.11.2015 passed by the Bihar State
Information Commission has imposed a fine
of Rs. 25,000/- on the Petitioner for not
providing the Information on time to one Sri
Gautam Kumar;*

(ii) for staying the Operation of



the above mentioned order dated 30.11.2015 till final adjudication in the facts and circumstances herein below;

(iii) for taking appropriate action against the said Gautam Kumar for not apprising with the fact to the Bihar State Information Commission regarding the information received by him vide Memo No. 220 A dated 23.06.2012.

3. The facts in short is/are that the petitioner, Circle Officer Bahadurganj, Kishanganj was at the relevant time was posted as Circle Officer, Chausa in the district of Madhepura and was also functioning as Public Information Officer.

4. One Gautam Kumar (Respondent No.-6) sought information on 13.03.2012 under the Right to Information Act (hence for short 'the Act') which duly received by this office but according to him, due to work load, the information was not provided. Aggrieved, the respondent no. 6 preferred first appeal followed by appeal before the State Information Commission which led to institution of Case No. 74522 of 2012-13.

5. It seems that upon knowledge of the institution of appeal, the petitioner on 23.06.2012 gave information to the



respondent no. 6.

6. Meanwhile, the matter was taken up by the State Information Commission and as per the orders on 20.08.2014 and 09.02.2015, notices were issued to the present petitioner. The case of the petitioner is that this notice was never received by him. However, as per the record, he was very much posted as Circle Officer-cum-Public Information Officer Chausa, Madhepura when the notices were issued and was transferred only on 11.05.2015.

7. It seems that before 'the Commission' neither the respondent no. 6 nor the petitioner informed that actually on 23.06.2012, the information has been given and in that backdrop, vide memo No. 14389 of 20.12.2015, a cost of Rs. 25,000/- was imposed upon the petitioner. It has been recorded by the State Information Commissioner that the petitioner was given more than one chance to explain his conduct but he chose not to avail that opportunity and in that backdrop taking into account that the order of the State Information Commissioner has been violated, the cost imposed, which is the part of the petition.

8. It is the case of the petitioner that admittedly, on 23.06.2012, the information was given and as such taking into



account section 20 of the Right to Information Act 2005 which deals with the penalty for delay and states about penalty of Rs. 250/- for each day till the information is furnished, as he had already furnished the information of 23.06.2012 after the mandatory period was over, there is/was delay of 70 days for which the amount comes to Rs. 17500/- and not Rs. 25,000/- which has been imposed upon him. The further submission is that the notices dated 20.08.2014 and 09.02.2015 were not received by him.

9. The State Counsel, on the other hand, submits that a bare perusal of the order would show that twice notices were issued to him on 09.02.2014 and 20.07.2014 which he failed to avail and more than the respondent no. 6, he being the public servant, it was his duty to appear before 'the Commission' and submit necessary information including the fact that the information sought for by the respondent no. 6 has since been made available to him on 23.06.2012. Having not availed that opportunity, the petitioner cannot ask for any relief. she as such submits that the writ petition is fit to be dismissed.

10. Upon query, whether in the absence of any stay, the amount of Rs. 25,000/- as per the order dated 30.11.2015 has been deposited by the petitioner or not, the answer is in



negative.

11. This shows his conduct/attitude. He being the public servant, firstly violated the guidelines issued in 'the Act' by not providing necessary information within 30 days and only after the respondent no. 6 moved before 'the Commission', after much delay, the same was provided on 23.06.2012. Further, twice notices were issued by the State Information Commission but he chose to ignore the same and never appeared, in that backdrop the order in question was passed whereafter the writ petition was filed belatedly in 2018 but again, it is not his case that he respected the order and made the necessary payment and/or took any steps for a stay on the order.

12. Section 20 of Act RTI 2005 read as follows:-

"Penalties- (1) Where the Central Information Commission or the State information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading



information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or



misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommended for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him."

13. In that backdrop taking into account that there has been delay of 70 days in providing information, calculating Rs. 250/- per day, as per the petitioner, it comes to Rs.17500/- and as such the order in question is modified to the extent that instead of Rs. 25,000/-, he has to deposit Rs. 17500/- within a period of four weeks from today.

14. Further, taking into account his conduct as he chose not to abide by the order of the State Information Commission which was passed and communicated vide memo No. 14389 dated 22.12.2015 for eight long years, knocked the doors of this Court three years later in 2018, never made any prayer for stay of the order but at the same time did not deposit Rs. 25,000/-, a cost of Rs. 5,000/- is imposed upon him which to be paid to the Patna High Court Legal Service Committee within four weeks from today.

15. The writ petition stands disposed of with the



aforesaid observation.

16. Let this case come up after six weeks under the heading 'To be mentioned' to ascertain whether the petitioner has deposited the aforesaid amount (Rs. 17500/-) as also Rs. 5,000/- to the Patna High Court Legal Service Committee or not as his conduct shows that even this order can be violated by him.

(Rajiv Roy, J)

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