



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition (WP) No. 1450 of 2022

Shivling Namdeorao Patwe

Versus

State Information Commissioner, State Information Commission, Bench
at Nagpur and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri U.J.Deshpande, Advocate for the petitioner.
Ms. Payal Bawankule, Advocate for the respondent/State.

CORAM : ANIL S. KILOR, J.
DATED : 16th OCTOBER, 2023.

Heard.

2. In this writ petition, the question involved is whether the impugned order dated 29th January, 2021 passed by the State Information Commissioner in second appeal directing to pay the penalty by the first Appellate Authority is within the powers of the State Information Commissioner and whether such penalty can be imposed without issuing show cause notice to the first Appellate Authority.

3. Obviously, the answer is in negative for the reasons that, it is a settled law without issuing show cause notice the State Information Commissioner is not empowered to impose any penalty.

3. As far as the question whether such penalty can be imposed after issuing show cause notice to the first Appellate Authority, the learned counsel for the petitioner has cited two judgments of the High Court of Madhya Pradesh High Court and Madras High Court.

4. In both the judgments namely *Lajjaram Pandey Vs. Madhya Pradesh State Information Commission and other in Writ Petition 3252 of 2018 of Madhya Pradesh High Court* and another *B. Muthuramalingam Vs. the State of Tamil Nadur and others in Writ Petition No. 28895 of 2010 of Madras High Court*, it has been held that the power to impose penalty by the State Information Commission is only in respect to the Information Officer and not in respect of first Appellate Authority. Accordingly, I pass the following order:

- i. The writ petition is allowed.
- ii. Order dated 29th January, 2021 passed by the State Information Commissioner is hereby quashed and set aside to the extent of imposition of penalty and

to the extent the Commissioner has recommended to the Deputy Education Officer for imposing penalty and to decide the same afresh after hearing both the parties.

[ANIL S. KILOR, J.]