CGHC010205192021 2026:CGHC:42967

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 3306 of 2021

1. Smt. Hemlata Dahariya W/o Girish Dahariya Aged About 37 Years Tahsildar Dhamdha, District Durg, Presently Posted At Tahsil Magarlod, District Dhamtari Chhattisgarh.

2. Smt. Durga Sahu W/o Deepak Sahu Aged About 28 Years Nayab Tahsildar Dhamdha, District Durg, Presently Posted At Tahsil Magarlod, District Dhamtari Chhattisgarh.

... Petitioners

ABHISHEK SHRIVAS
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versus

1. Chhattisgarh State Information Commission Through Secretary Sector 19, North Block Naya Raipur , Atal Nagar, Raipur District Raipur Chhattisgarh.

2. State of Chattisgarh Through Principal Secretary, GAD, Raipur , District Raipur Chhattisgarh

3. The Collector Durg District Durg Chhattisgarh.

4. Govind Patel R/o Bajrang Chowk, Post Dhamdha, Tahsil Dhamdha, District Durg Chhattisgarh.

... Respondents

For Petitioner	**:**	Mr. Rohan Kumbhare, Advocate on behalf of Mr. Baskar Jha, Advocate
For Respondent No. 1	**:**	Mr. Anumesh Shrivastava, Advocate.
For Respondents/State	**:**	Mr. Hariom Rai, Panel Lawyer

Hon'ble Shri Amitendra Kishore Prasad, Judge

Order on Board

05.10.2026

1. This petition has been filed by the petitioner with the following prayer:

> "*10.1 That, this Hon'ble Court may kindly be pleased to call the entire records relating to this case.*
>
> *10.2 That, this Hon'ble court may kindly be pleased to allow the petition and set-aside the impugned order dated 19.04.2021.*
>
> *10.3 That, this Hon'ble court may kindly be pleased to allow the petition and award suitable compensation to the petitioners for mental harassment caused to them.*
>
> *10.4 That any other relief, which this Hon'ble Court may deem fit and proper together with cost of the petition."*

2. Facts of the case are that the respondent No.4, namely, Shri Govind Patel, submitted an application dated 18.06.2018 under the Right to Information Act, 2005 before the then Tahsildar-cum-Public Information Officer, Dhamdha, District Durg, Shri Jageshwar Kaushal, seeking information regarding the condition of ponds and encroachments made thereon within the area of Nagar Panchayat, Dhamdha. As the requisite information was not supplied within the statutory period of 30 days, respondent No.4 preferred a first appeal on 19.07.2018. Even thereafter, as the information was not supplied, respondent No.4 preferred a second appeal before the Chhattisgarh State Information Commission on 14.09.2018.

3. During the proceedings before the Chhattisgarh State Information Commission, the then Information Commissioner, vide order dated 14.10.2019, called for an explanation from the then Tahsildar, Shri Jageshwar Kaushal, as well as from the present Petitioners, namely, Smt. Hemlata Dahariya, petitioner No.1, and Smt. Durga Sahu, petitioner No.2. The petitioner No.2, Smt. Durga Sahu, submitted her reply dated 23.04.2020, duly received in the office of the Information Commission on 06.05.2020, specifically stating that the original application under the Right to Information Act had been filed on 18.06.2018 and the first appeal had been filed on 19.07.2018, at a time when she was not posted at Tahsil Dhamdha. It was further stated that she was posted at Tahsil Dhamdha only for the period from 31.07.2018 to 16.08.2018 and that the concerned RTI file was never placed before her during her posting. The petitioner No.1, Smt. Hemlata Dahariya, also submitted her reply dated 29.04.2020, which was received in the office of the Information Commission on 05.05.2020. In the said reply, she categorically stated that she was not posted at Tahsil Dhamdha during the period from 18.06.2018 to 19.07.2018. Although a copy of the said reply is not presently available with the petitioner No.1, the filing of the said reply is duly reflected in the order-sheet dated 18.05.2020 of the Information Commission, particularly in paragraph 4 thereof.

4. The office of the Tahsildar-cum-Public Information Officer, Dhamdha, had also furnished the details of the period during which the concerned officers, namely, Shri Jageshwar Kaushal, petitioner No.2 Smt. Durga Sahu and petitioner No.1 Smt. Hemlata Dahariya, were posted at Tahsil Dhamdha, vide memo dated 24.09.2019. As per the aforesaid memo dated 24.09.2019, the respective periods of posting of the concerned officers at Tahsil Dhamdha were as follows:

S. No.	Name of Officer	Designation	Period of Posting at Dhamdha
1.	Shri Jageshwar Kaushal	Tahsildar	04.01.2018 to 31.07.2018
2.	Smt. Durga Sahu	Naib Tahsildar (In-charge)	31.07.2018 to 16.08.2018
3.	Smt. Hemlata Dahariya	Tahsildar	16.08.2018 onwards

5. The aforesaid official record makes it abundantly clear that the original RTI application dated 18.06.2018, as well as the first appeal dated 19.07.2018, were submitted during the period when neither of the petitioners was posted at Tahsil Dhamdha. Petitioner No. 2 joined at Dhamdha only on 31.07.2018, whereas petitioner No.1 joined only on 16.08.2018. Thus, the petitioners had neither received nor dealt with the original RTI application or the first appeal during the relevant statutory period. The said fact was specifically brought to the notice of the Information Commission by the petitioners and was also supported by the official record. Despite the aforesaid facts being available on record, the Chhattisgarh State Information Commission, without properly considering the period of posting of the petitioners and their specific explanations, passed the impugned order dated 19.04.2021, directing the Collector, Durg to initiate disciplinary proceedings against the petitioners under Section 20(2) of the Right to Information Act, 2005. While passing the impugned order, the Information Commission proceeded on the premise that the petitioners, being the then Public Information Officers, had not submitted their replies, whereas the record clearly demonstrates that petitioner No.2 had submitted her detailed reply dated 23.04.2020 and petitioner No.1 had also submitted her reply dated 29.04.2020, both of which were duly received in the office of the Information Commission. The filing of the reply of petitioner No.1 is also reflected in the order-sheet dated 18.05.2020.

6. The impugned order dated 19.04.2021 has thus been passed without proper consideration of the material available on record, particularly the official posting details and the replies submitted by the petitioners. The direction for initiation of disciplinary proceedings against the petitioners under Section 20(2) of the Right to Information Act, 2005, therefore, suffers from non-application of mind and is contrary to the material available on record. Being aggrieved by the impugned order dated 19.04.2021 passed by the Chhattisgarh State Information Commission, the petitioners have preferred the instant present writ petition.

7. Learned counsel for the petitioners submits that the petitioners were not posted as Public Information Officers at Dhamdha Tahsil when the application under the Right to Information Act dated 18.06.2018 was filed by respondent No. 4, nor were they posted there during the subsequent period of 30 days. Therefore, they cannot be held responsible for non-supply of the information. It is further submitted that even otherwise, upon perusal of the application submitted by the information seeker, it appears that the application itself is vague and does not specify the information sought in a clear and definite manner. In such circumstances, the information sought by the applicant could not have been furnished by the concerned Public Information Officer. However, this aspect of the matter has not been considered by the Second Appellate Authority, i.e. the State Information Commission, while passing the impugned order and imposing a penalty of Rs.25,000/- upon the petitioner. He further submits that the petitioners had already submitted their explanations pursuant to the direction of the Information Commission, which is duly reflected in the order sheet dated 18.05.2020. However, the finding recorded by the Information Commission on 19.04.2021 that the petitioners had not filed their replies is patently erroneous and illegal. He

also submits that the direction for initiating disciplinary action against the petitioners is illegal and is likely to cause prejudice to their prospects of promotion. Therefore, the impugned order is violative of their constitutional rights.

8. On the other hand, learned counsel appearing for the respective respondents, though supporting the order passed by the C.G. State Information Commission in S.A. No. 3264 of 2018 vide order dated 19.04.2021, fairly submitted that the petitioners had, in fact, submitted their respective replies before the Commission. It was submitted that the copies of the said replies were not available on the record at the relevant time and had recently been traced in the file of another person.

9. I have heard learned counsel for the parties and perused the material available on record with due care and consideration.

10. Considering the fact that the petitioners, who were the concerned Public Information Officers, had duly submitted their respective replies before the State Information Commission, but the same could not be taken into consideration at the relevant point of time, the finding recorded by the Commission that the petitioners had not submitted their replies is not borne out from the material available on record.

11. From the perusal of the reply filed by the petitioners it is apparent that the petitioners were not posted at the relevant point of time when the application seeking information was filed under RTI, as such no liability can be fastened upon the petitioners. Accordingly the order passed by the respondent No. 1 is palpably illegal and the same is required to be set-aside.

12. It is further evident from a perusal of the application submitted by the information seeker that the information sought therein was vague and lacked the necessary particulars to clearly identify the precise information sought. This aspect of the matter has also not been considered by the State Information Commission while imposing a penalty of Rs.25,000/- upon the petitioners. In the facts and circumstances of the case, particularly when the petitioners had already submitted their respective replies, the imposition of the aforesaid penalty is not justified and cannot be sustained.

13. Accordingly, the writ petition is **allowed**. The impugned order dated 19.04.2021 passed by the C.G. State Information Commission in S.A. No. 3264 of 2018 is hereby quashed and set aside. Insofar as it relates to the imposition of penalty of Rs.25,000/- upon the petitioners. Any consequential action taken pursuant to the said order, to the extent it relates to the aforesaid penalty, shall also stand quashed.

Sd/-
(Amitendra Kishore Prasad)
Judge

Abhishek