CGHC010286002022 2026:CGHC:45678

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 3848 of 2022

Reserved on 1.10.2026

Pronounced on 29.10.2026

SHYNA AJAY
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Date: 2026.10.29 19:13:21 +0530

Krishna Ram Barhai S/o Late Shri Rai Singh, Aged About 57 Years, R/o Forest Colony, Balodabazar District Balodabazar Bhatapara Chhattisgarh

... Petitioner(s)

versus

1 - State Of Chhattisgarh, Through The Secretary, General Administration Department, Naya Raipur, Atal Nagar, District Raipur Chhattisgarh

2 - State Information Commission Through Chief Information Commissioner, Chhattisgarh State Information Commission Naya Raipur, District Raipur Chhattisgarh

3 - The Divisional Forest Officer, Balodabazar, Forest Division Balodabazar, District Balodabazar Bhatapara Chhattisgarh

4 - Anil Agrawal S/o Shri Agrawal, Aged About 50 Years R/o Bandwapara, Purani Basti, Raipur District Raipur Chhattisgarh

... Respondent(s)

For Petitioner(s)	:	Mr. Akash Pandey, Advocate
For Respondent 1 & 3/State	:	Dr. Arham Siddiqui, Panel Lawyer
For Respondent No.2	:	Dr. Shyam Sunder Lal Tekchandani, Advocate
For Respondent No.4	:	Mr. Pranjal Agarwal, Advocate

SB: Hon'ble Mr. Justice Amitendra Kishore Prasad

C A V Order

1. The present Writ Petition under Article 226 of the Constitution of India has been preferred challenging the legality, propriety and validity of the impugned order dated 11.04.2022 passed by the Chhattisgarh State Information Commission (Respondent No. 2) in Complaint Case No. C/922/2021. By the impugned order, Respondent No. 2 recorded a finding of guilt against the petitioner for wrongful denial of information, issued a show cause notice for imposing a maximum penalty of Rs. 25,000/- under Section 20(1) of the Right to Information Act, 2005 (hereinafter referred to as "the Act of 2005") and directed recommendation of departmental proceedings under Section 20(2) of the Act of 2005.

2. Brief facts of the case, as projected by the petitioner, are that Respondent No. 4 filed an application dated 19.07.2021 under Section 6(1) of the RTI Act before the petitioner, who was then functioning as the Public Information Officer-cum-Divisional Forest

Officer, Forest Division, Baloda Bazar, seeking certified copies of the official vehicle logbook and the official daily movement diary of the petitioner for the month of June 2021. The petitioner/PIO considered the application and filed a detailed response dated 11.08.2021 within the statutory period of thirty days. The petitioner informed the applicant that the information sought pertained to routine travel movements and operational deployments of a forest authority, disclosure of which would compromise official security and personal safety, thereby falling under the exemptions provided under Sections 8(1)(j) and 11(1) of the RTI Act, in light of the judgment passed by the Hon'ble Supreme Court in SLP(C) No.27734/2012 {**Girish Ramchandra Deshpande vs. CIC**}. The petitioner stated in the reply that if aggrieved, Respondent No. 4 may prefer a First Appeal under Section 19(1) of the Act of 2005. However, instead of exhausting the statutory appellate remedy provided under Section 19(1) of the Act of 2005 before the First Appellate Authority, Respondent No. 4 directly approached the State Information Commission by filing a complaint dated 28.08.2021 under Section 18 of the Act of 2005. Respondent No. 2 registered the complaint as Complaint Case No. C/922/2021 and issued notice to the petitioner. With considering the reply of the petitioner, Respondent No.2 passed the impugned order dated 11.04.2022, holding the petitioner guilty of withholding information and issuing show cause notice(s) under Sections 20(1) and 20(2) of the Act of 2005. Hence, this Petition.

3. Mr. Akash Pandey, learned counsel appearing for the petitioner, submits that the impugned order dated 11.04.2022 is illegal, non-speaking and passed in violation of the principles of natural justice. He submits that Respondent No. 2 committed a grave jurisdictional error by entertaining a direct complaint under Section 18 when a reply/denial had already been furnished by the PIO, thereby, allowing the information seeker to bypass the mandatory statutory remedy of a First Appeal under Section 19(1). He further submits that official movement diaries and vehicle logbooks of a field officer contain operational and security sensitive details and are exempt from disclosure under Section 8(1)(j) of the Act of 2005. He also argued that penalty under Section 20 cannot be imposed without recording a finding of mala fide intent or deliberate refusal and since the petitioner acted bona fide, no mala fide intent could be attributed to him. He also submits that Respondent No. 2 prejudged the issue by recording a conclusive finding of guilt in the impugned order prior to considering the reply to the show cause notice, reducing the process to a mere empty formality. He further submits that under the statutory scheme of the Act of 2005, the State Information Commission is constituted comprising the State Chief Information Commissioner and State Information Commissioners. For the Commission to lawfully exercise its quasi-judicial powers, any proceeding or order conducted/passed in the name of the State Information Commission must be adjudicated by a bench duly constituted by or including the State Chief Information Commissioner or by a

division/multi member bench as contemplated under the Act. In the present case, the hearing was conducted and the impugned order was passed solely by a single State Information Commissioner acting as a single-member bench without the participation or administrative authorization of the Chief Information Commissioner. Therefore, the proceedings were conducted *coram non judice* and in direct violation of the statutory provisions of the Act of 2005, thereby rendering the impugned order illegal, void and *non est* in the eyes of law.

4. Per contra, Mr. Shyam Sunder Lal Tekchandani, learned counsel appearing for the State Information Commission (Respondent No. 2) submits that the impugned order dated 11.04.2022 only recorded a prima facie view regarding the improper denial of information and issued a show cause notice under Sections 20(1) and 20(2) of the Act of 2005. He submits that the proceedings have not attained finality and the petitioner was afforded full opportunity to demonstrate bona fide conduct, meaning thereby no cause of action has accrued to invoke the writ jurisdiction of this Court. He also submits that under Section 18 read with Section 20 of the Act of 2005, the Commission possesses wide supervisory powers to inquire into cases of illegal withholding of information and non-filing of a First Appeal does not extinguish this jurisdiction. He asserted that under Section 2(f) of the Act of 2005, vehicle logbooks and daily diaries fall within the definition of "information" and refusal under Section 8(1)(j) without demonstrating how disclosure would cause an unwarranted

invasion of privacy is legally untenable. He further submits that regarding the Bench constitution, under Sections 12(4) and 15(4) of the Act of 2005, the Chief Information Commissioner possesses administrative authority to constitute Benches, as affirmed by the Hon'ble Supreme Court in **Central Information Commission Vs. DDA and another** reported in **(2024) 8 SCC 812**. Hence, he prays for dismissal of the petition.

5. Heard learned counsel for the parties and also perused the documents annexed with the petition with utmost circumspection.

6. Evidently, the impugned order dated 11.04.2022 passed by the Chhattisgarh State Information Commission reveals that the authority failed to appreciate an important aspect of the case i.e. the information seeker had sought details regarding the vehicle logbook and official travel itineraries of the petitioner, who was then serving as Divisional Forest Officer, Forest Division, Baloda Bazar. A perusal of the reply filed by the petitioner/Public Information Officer shows that disclosure was denied under Sections 8(1)(j) and 11(1) of the Act of 2005 on the ground that the information sought constitutes personal information. The petitioner stated that disclosing routine travel movements could entail security implications for the official as well as third parties.

7. It is a vital aspect of the matter that the information seeker preferred a direct complaint under Section 18 of the Act of 2005 before the State Information Commission without exhausting the statutory remedy of filing a First Appeal under Section 19(1). The

law is well settled by the Hon'ble Supreme Court in **Chief Information Commissioner Vs. State of Manipur and others,** reported in **AIR 2012 SC 864** that Section 18 and Section 19 of the Act of 2005 operate in distinct fields and serve different purposes. The Hon'ble Supreme Court held that while entertaining a complaint under Section 18, the Information Commission exercises purely inquisitorial and penal jurisdiction and has no jurisdiction to direct the disclosure of information, which can only be sought through the appellate procedure prescribed under Section 19. The following was held in paragraphs 38, 39, 40 & 49 :

> ***38.*** *The procedure for hearing the appeals has been framed in exercise of power under clauses (e) and (f) of sub-section (2) of Section 27 of the Act. They are called the Central Information Commission (Appeal Procedure) Rules, 2005. The procedure of deciding the appeals is laid down in Rule 5 of the said Rules. Therefore, the procedure contemplated under Section 18 and Section 19 of the said Act is substantially different.*
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> ***39.*** *The nature of the power under Section 18 is supervisory in character whereas the procedure under Section 19 is an appellate procedure and a person who is aggrieved by refusal in receiving the information which he has sought for can only seek redress in the manner provided in the statute, namely, by following the procedure under Section 19. This Court is, therefore, of the opinion that Section 7 read with Section 19 provides a complete statutory mechanism to a person who is aggrieved by refusal to receive information. Such person has to get the information by following the aforesaid statutory provisions. The contention of the appellant that information can be accessed through Section 18 is contrary to the express provision of Section 19 of the Act.*

> ***40.*** *It is well known that when a procedure is laid down statutorily and there is no challenge to the said statutory procedure the Court should not, in the name of interpretation, lay down a procedure which is contrary to the express statutory provision. It is a time-honoured principle as early as from the decision in Taylor v. Taylor [(1875) 1 Ch D 426 (CA)] that where a statute provides for something to be done in a particular manner it can be done in that manner alone and all other modes of performance are necessarily forbidden. This principle has been followed by the Judicial Committee of the Privy Council in Nazir Ahmad v. Emperor [(1935-36) 63 IA 372 : AIR 1936 PC 253 (2)] and also by this Court in Deep Chand v. State of Rajasthan [AIR 1961 SC 1527 : (1961) 2 Cri LJ 705] , AIR at para 9 and also in State of U.P. v. Singhara Singh [AIR 1964 SC 358 : (1964) 1 Cri LJ 263 (2)] reported in AIR at para 8.*
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> ***49.*** *There is another aspect also. The procedure under Section 19 is an appellate procedure. A right of appeal is always a creature of statute. A right of appeal is a right of entering a superior forum for invoking its aid and interposition to correct errors of the inferior forum. It is a very valuable right. Therefore, when the statute confers such a right of appeal that must be exercised by a person who is aggrieved by reason of refusal to be furnished with the information.*

8. Furthermore, in the matter of **Shishir Gupta Vs. Central Public Information Officer, Reserve Bank of India**, reported in **2022 SCC OnLine CIC 159**, the Central Information Commission, reiterating the principle laid down in **State of Manipur (supra)**, held as under in paragraph 11:

> ***11.*** *This Commission further observes that while examining the complaint under Section 18 of the RTI Act, 2005, the CIC has no jurisdiction to direct disclosure of*

any information. This legal position has been authoritatively settled by the Hon'ble Supreme Court of India in Chief Information Commissioner v. State of Manipur in Civil Appeal Nos. 10787-10788 of 2011 dated 12-12-2011. The relevant extract of the said decision is set down below:

> *"30. It has been contended before us by the Respondent that under Section 18 of the Act the Central Information Commission or the State Information Commission has no power to provide access to the information which has been requested for by any person but which has been denied to him. The only order which can be passed by the Central Information Commission or the State Information Commission, as the case may be, under Section 18 is an order of penalty provided under Section 20. However, before such order is passed the Commissioner must be satisfied that the conduct of the Information Officer was not bona fide.*
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> *31.* ***We uphold the said contention and do not find any error in the impugned judgment of the High court whereby it has been held that the Commissioner while entertaining a complaint under Section 18 of the said Act has no jurisdiction to pass an order providing for access to the information****.*
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> *37. We are of the view that Sections 18 and 19 of the Act serve two different purposes and lay down two different procedures and they provide two different remedies. One cannot be a Substitute for the other…."*

9. While resorting to a complaint under Section 18 may be permissible where a Public Information Officer fails to respond or refuses to accept an application altogether, once a reply/denial has been furnished by the PIO, the aggrieved party must resort to the First Appellate Authority under Section 19(1). The statutory

scheme does not permit converting a grievance against a PIO's reply into a direct complaint under Section 18 as a substitute for an appeal. On this ground alone, the order passed by the Commission is rendered unsustainable and liable to be quashed.

10. Furthermore, the information sought pertaining to the day-to-day official movements and vehicle logbook of a serving field officer could not have been disclosed in view of the statutory bar under Section 8(1)(j) of the Act of 2005. The State Information Commission did not consider the detailed explanation submitted by the petitioner and proceeded to hold the petitioner guilty without recording any finding of mala fide intent or willful withholding of information.

11. In view of the settled position of law {**Manohar S/o Manikrao Anchule Vs. State of Maharashtra and another** reported in **(2012) 13 SCC 14**)}, proceedings for penalty under Section 20 (1) and recommendation of departmental action under Section 20 (2) cannot be sustained in the absence of a deliberate default or malafide conduct on the part of the Public Information Officer. Given that the petitioner acted bona fide, no malafide intent can be inferred or presumed against him. Hence, the impugned order recording a premature finding of guilt and issuing the show cause notice under Section 20 is bad in law.

12. With respect to the petitioner's objection regarding the constitution of the Bench, the Act of 2005 establishes a tiered mechanism comprising the Public Information Officer, the First Appellate

Authority and the Second Appellate Authority depending on the facts and circumstances of the case. Thus, each member of the State Information Commission and the Central Information Commission is fully competent to decide the issue involved on its own merits. There is therefore no question of an individual Commissioner usurping the jurisdiction of the Commission or passing an order in a personal capacity, as argued by counsel for the petitioner.

13. Furthermore, in the matter of **Central Information Commission v. DDA (supra),** it has been held by the Hon'ble Supreme Court that absence of an explicit provision for Benches does not negate the CIC's authority to constitute them, as such powers are implicitly included within the scope of the CIC's general superintendence and management responsibilities. Further, the broad language of the RTI Act indicates an intention to grant the CIC comprehensive authority to ensure the effective and efficient functioning of the commission. Relevant portion of the said decision reads as under:-

> 17. The absence of an explicit provision for Benches does not negate the CIC's authority to constitute them, as such powers are implicitly included within the scope of the CIC's general superintendence and management responsibilities. The broad language of the RTI Act indicates an intention to grant the CIC comprehensive authority to ensure the effective and efficient functioning of the Commission. The Delhi High Court's narrow reading of the provisions overlooked the inherent of

> the CIC to manage the affairs of the Commission. The RTI Act's broad language suggests that legislative intent was to provide the CIC with the necessary authority to implement measures that ensure the Commission's effective operation.
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> 18. In the present case, the RTI Act should be interpreted purposively, taking into account the broader objectives of the legislation. The purpose of the RTI Act is to promote transparency and accountability in the functioning of public authorities, ensuring citizens' essential that the Central Information Commission operates efficiently and without undue procedural constraints. The principle of purposive interpretation supports the view that the CIC's powers under Section 12(4) of the RTI Act includes all necessary measures to manage and direct the Commissioner's affairs effectively. This includes the ability to form Benches to handle the increasing volume of cases. The formation of Benches allows for the efficient allocation of work and ensures the timely disposal of cases, which is crucial for upholding the right to information.

14. Coming to the facts of the present case, in light of the principles laid down in the aforesaid judgment **{Central Information Commission Vs. DDA (supra)}**, although the petitioner fails on the ground concerning the constitution and quorum of the Bench, the impugned order nevertheless suffers from a jurisdictional defect under Section 18 of the Act of 2005. Furthermore, it is substantively unsustainable on merits due to the absence of any finding of malafide intent. Consequently, the impugned order cannot be sustained in the eyes of law.

15. Accordingly, the impugned order dated 11.04.2022 passed by Respondent No. 2 is set-aside.

16. Consequently, the Writ Petition **is allowed.**

Sd/-

(Amitendra Kishore Prasad)
Judge

Shyna Ajay