



2026:CGHC:21103

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPC No. 4700 of 2022**

Jadhav Sagar Ramchandra S/o Shri Jadhav Ramchandra Nagnath
Aged About 35 Years Presently Working As Divisional Forest Officer,
Forest Division Sukma, District Sukma

... Petitioner**versus**

1 - Chhattisgarh State Information Commission Through The
Commissioner, Sector -19, North Block, Atal Nawa Raipur Chhattisgarh.

2 - Shri Sharad Singh R/o. Flat Number 17, 18, Block -1, Lalbaug
Houseing Board Colony, Jagdalpur, District Bastar Chhattisgarh.

... Respondents

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. N. Naha Roy, Advocate
For Respondent No.1	:	Mr. Shyam Sunder Lal Tekchandani, Advocate
For Respondent No.2	:	None

Hon'ble Shri Amitendra Kishore Prasad, Judge**Order on Board****06.05.2026**

- By way of the present petition, the petitioner assails the impugned order dated 07.09.2022 passed in Second Appeal No.A/3354/2021 (Annexure P/1), whereby the appeal preferred by respondent No. 2 under Section 19(3) of the Right to Information



Act, 2005 (for short, 'RTI Act, 2005') has been allowed without affording any opportunity of hearing to the petitioner or considering his reply, and he has been held guilty of denial of information with a direction to furnish the same within 30 days at his own cost. The petitioner further challenges the initiation of proceedings under Sections 20(1) and 20(2) of the RTI Act, 2005, including issuance of show cause notice proposing imposition of maximum penalty and recommendation for disciplinary action, contending that such proceedings have been initiated mechanically without any prior determination of misconduct. It is submitted that the matter now being fixed only for penalty proceedings on 14.11.2022 is arbitrary and unsustainable, warranting interference by this Court. The petitioner has prayed for following reliefs :-

“10.1 Issue an appropriate writ and set aside the order dated 07.09.2022 (Annexure P/1), whereby the second appeal preferred by the respondent No.: 2 under Section 19(3) of the RTI Act, 2005, has been allowed without affording minimum opportunity of hearing to the petitioner in utter violation of provisions of the RTI Act, 2005 and of natural justice.

10.2 Grant any other relief, which is deemed fit in the circumstances of the case.”

2. Learned counsel for the petitioner submits that the impugned order dated 07.09.2022 passed by the Chhattisgarh State Information Commission is wholly arbitrary, illegal, and in gross



violation of the settled principles of natural justice. It is contended that the petitioner, being a Public Information Officer, had duly furnished a reasoned reply dated 05.07.2021 to the RTI application dated 24.06.2021, clearly stating that the information sought was vague and non-specific, as no particular work or transaction was identified, and therefore, in terms of Section 2(f) read with Section 6(1)(b) of the RTI Act, 2005, the same could not be supplied. The First Appellate Authority, upon due consideration, had also upheld the said position by a speaking order dated 22.10.2021. It is further submitted that despite the above, in the second appeal, the State Information Commission, on the very first date of hearing i.e., 07.09.2022, proceeded to pass the impugned order directing the petitioner to furnish the information within 30 days, fastened financial liability upon him, and simultaneously initiated proceedings under Sections 20(1) and 20(2) of the RTI Act, 2005, without affording any opportunity of hearing to the petitioner. Such action, it is urged, is in flagrant violation of the doctrine of *audi alteram partem*, as no notice or effective opportunity was granted before recording adverse findings entailing serious civil consequences.

3. Learned counsel further submits that the direction to disclose the cheque drawn register is itself unsustainable, as the information sought is not only vague but also falls within the ambit of exempted information under Section 8(1)(d) of the RTI Act, 2005, involving commercial confidence and third-party interests, and no



larger public interest has been demonstrated by respondent No.2.

It is also contended that initiation of penalty proceedings under Sections 20(1) and (2) of the RTI Act, 2005 is premature and without jurisdiction, as such proceedings can be undertaken only upon a definitive finding of malafide denial or misconduct after due consideration of the explanation of the Public Information Officer. It is further argued that respondent No. 2 has been repeatedly filing similar RTI applications for different financial years without specifying the requisite particulars, thereby misusing the provisions of the RTI Act, 2005. In these circumstances, the impugned order reflects complete non-application of mind, mechanical exercise of power, and abuse of process, warranting interference by this Court.

4. Reliance has further been placed upon the judgment rendered by the Division Bench of this Court in ***Nitin Singhvi v. Chhattisgarh State Information Commission (WA No.215/2020 decided on 12.06.2023)***, wherein it has been categorically held that imposition of penalty under Section 20(1) of the RTI Act is not automatic and can be sustained only upon a clear finding of malafide denial or unreasonable delay without sufficient cause. It is submitted that the said judgment fortifies the petitioner's case inasmuch as, in the present matter, there is neither any deliberate withholding of information nor any contumacious conduct attributable to the petitioner, and therefore, the impugned penalty is wholly unsustainable in law.



5. On the other hand, learned counsel for respondent No. 1 opposes the submissions of learned counsel for the petitioner and submits that the impugned order dated 07.09.2022 has been passed in accordance with the provisions of the RTI Act, 2005, and does not call for any interference. It is contended that the information sought by respondent No. 2 pertains to a cheque drawn register relating to public funds received from the State CAMPA account for the financial year 2017–18, which is part of official records and ought to have been disclosed. It is further submitted that the petitioner, being the Public Information Officer, failed to discharge his statutory obligation by not furnishing the information and by rejecting the application on untenable and hyper-technical grounds of vagueness. Learned counsel submits that even if the application was not specific, the petitioner was duty-bound to assist the information seeker in terms of the RTI Act, 2005 by guiding him to make a proper request or by facilitating access to available records, which was not done in the present case. It is also contended that the petitioner wrongly withheld information without any justifiable reason and failed to demonstrate that the information sought was exempt under Section 8(1)(d) of the RTI Act, 2005 or that any larger public interest was not involved. In such circumstances, the State Information Commission has rightly exercised its jurisdiction in directing supply of information and initiating proceedings under Sections 20(1) and 20(2) of the RTI Act, 2005 for imposition of penalty on account of dereliction of



duty. Hence, the impugned order is legal, proper, and in consonance with the scheme of the RTI Act, 2005.

6. Despite service of notice, none appears on behalf of respondent No.2 at the time of hearing.
7. I have heard learned counsel for the parties and perused the material available on record.
8. It is noted that the Hon'ble Division Bench of this Court, while considering a similar issue in **Nitin Singhvi** (supra), has elaborately examined the scope and ambit of imposition of penalty under Section 20(1) of the RTI Act. The Division Bench has held that the power to impose penalty is not automatic or mechanical, but is conditioned upon the existence of cogent material demonstrating that the Public Information Officer has, without reasonable cause, either refused to furnish information, caused undue delay, or acted in a malafide manner. It has been further held that mere delay or inability to furnish certain information, particularly when such information is not available on record or lies with another authority, would not ipso facto attract penal consequences. The Court has emphasized that before imposing penalty, the Information Commission is under a statutory obligation to record a clear and reasoned finding with respect to the existence of malafide intent or lack of reasonable cause, and must also afford an effective opportunity of hearing to the concerned officer. The burden cast upon the Public Information



Officer under the proviso to Section 20(1) is to establish that he acted reasonably and diligently; however, once such explanation is furnished and remains uncontroverted, the Commission cannot proceed to impose penalty in a routine manner.

9. It has further been observed that where the Public Information Officer has taken steps in compliance with the provisions of the Act, such as transferring the application to the concerned department under Section 6(3) of the RTI Act, 2005 or furnishing such information as is available on record, the same would constitute a reasonable and sufficient cause, insulating him from penal action. The Division Bench has cautioned that the penal provisions under the Act, being quasi-criminal in nature, must be invoked with due care and only in cases where the conduct of the officer is found to be contumacious or deliberately obstructive. In light of the aforesaid principles, the Division Bench set aside the penalty imposed therein, holding that in the absence of any finding of malafide or deliberate lapse, the order of penalty could not be sustained by observing as follows :-

“12. The Supreme Court in the matter of Manohar v. State of Maharashtra, (2012) 13 SCC 14 has held that the State Information Commission has been vested with wide powers including imposition of penalty or taking of disciplinary action against the employees and the provisions relating to penalty or to penal consequences have to be construed strictly. While dealing with Section 20(2) of the Act of



2005, their Lordships have observed in paragraph 16 as under :-

“16. The State Information Commission has been vested with wide powers including imposition of penalty or taking of disciplinary action against the employees. Exercise of such power is bound to adversely affect or bring civil consequences to the delinquent. Thus, the provisions relating to penalty or to penal consequences have to be construed strictly. It will not be open to the Court to give them such liberal construction that it would be beyond the specific language of the statute or would be in violation to the principles of natural justice.”

13. Their Lordships of the Supreme Court have further held while dealing with initiation of departmental proceeding that the case of default must strictly fall within the specified grounds of the provisions of Section 20(2). This provision has to be construed and applied strictly. Its ambit cannot be permitted to be enlarged at the whims of the Commission. It has also been held that “negligence” per se is not a ground on which proceedings under Section 20(2) of the Act can be invoked and the Commission must return a finding that such negligence, delay or default is persistent (meaning: continuing for a long time or happening often, especially in a way that is unpleasant or annoying) and without



reasonable cause. Paragraphs 31 and 33 of the report state as under:-

“31. It appears that the facts have not been correctly noticed and, in any case, not in their entirety by the State Information Commission. It had formed an opinion that the appellant was negligent and had not performed the duty cast upon him. The Commission noticed that there was 73 days delay in informing the applicant and, thus, there was negligence while performing duties. If one examines the provisions of Section 20(2) in their entirety then it becomes obvious that every default on the part of the concerned officer may not result in issuance of a recommendation for disciplinary action. The case must fall in any of the specified defaults and reasoned finding has to be recorded by the Commission while making such recommendations. ‘Negligence’ per se is not a ground on which proceedings under Section 20(2) of the Act can be invoked. The Commission must return a finding that such negligence, delay or default is persistent and without reasonable cause. In our considered view, the Commission, in the present case, has erred in not recording such definite finding. The appellant herein had not failed to receive any application, had not failed to act within the period of 30 days (as he had written a letter calling for information), had not



malafidely denied the request for information, had not furnished any incorrect or misleading information, had not destroyed any information and had not obstructed the furnishing of the information. On the contrary, he had taken steps to facilitate the providing of information by writing the stated letters. May be the letter dated 11th April, 2007 was not written within the period of 30 days requiring respondent No.2 to furnish details of the period for which such information was required but the fact remained that such letter was written and respondent No.2 did not even bother to respond to the said enquiry. He just kept on filing appeal after appeal. After April 4, 2007, the date when the appellant was transferred to Akola, he was not responsible for the acts of omissions and/or commission of the office at Nanded.

14. Their Lordships further held that the word "shall" appearing in Section 20(2) of the Act of 2005 before 'recommend' has to be read as "may" and their Lordships observed as under :-

33. All the attributable defaults of a Central or State Public Information Officer have to be without any reasonable cause and persistently. In other words, besides finding that any of the stated defaults have been committed by such officer, the Commission has to further record its opinion that such default in relation to receiving of an



application or not furnishing the information within the specified time was committed persistently and without a reasonable cause. Use of such language by the Legislature clearly shows that the expression 'shall' appearing before 'recommend' has to be read and construed as 'may'. There could be cases where there is reasonable cause shown and the officer is able to demonstrate that there was no persistent default on his part either in receiving the application or furnishing the requested information. In such circumstances, the law does not require recommendation for disciplinary proceedings to be made. It is not the legislative mandate that irrespective of the facts and circumstances of a given case, whether reasonable cause is shown or not, the Commission must recommend disciplinary action merely because the application was not responded to within 30 days. Every case has to be examined on its own facts. We would hasten to add here that wherever reasonable cause is not shown to the satisfaction of the Commission and the Commission is of the opinion that there is default in terms of the Section it must send the recommendation for disciplinary action in accordance with law to the concerned authority. In such circumstances, it will have no choice but to send recommendatory report. The burden



of forming an opinion in accordance with the provisions of Section 20(2) and principles of natural justice lies upon the Commission.”

10. Reverting to the facts of the present case, this Court finds that the impugned order dated 07.09.2022 passed by respondent No. 1 cannot be sustained in the eyes of law. A careful consideration of the record would reveal that the petitioner, while functioning as Public Information Officer, had furnished a reasoned and speaking reply dated 05.07.2021, clearly indicating that the information sought by respondent No. 2 was vague and non-specific, as no particular transaction or work was identified. The petitioner had also advised the applicant to file a fresh, specific application so that the requisite information could be furnished. The First Appellate Authority, by order dated 22.10.2021, concurred with the said position and rejected the appeal on the ground of lack of specificity. Thus, the action of the petitioner was in consonance with the statutory scheme of the RTI Act, 2005.
11. It is further evident that the State Information Commission, on the very first date of hearing, proceeded to pass the impugned order directing supply of information and simultaneously initiating proceedings under Sections 20(1) and 20(2) of the RTI Act, 2005, without affording any opportunity of hearing to the petitioner. Such a course of action is in clear violation of the principles of natural justice, particularly the doctrine of *audi alteram partem*, as



adverse findings entailing civil consequences have been recorded without granting the petitioner an opportunity to explain his stand.

- 12.** In light of the settled legal position, it is manifest that imposition of penalty under Sections 20(1) and 20(2) of the RTI Act, 2005 is not automatic and must be preceded by a clear finding of malafide denial of information or deliberate default without reasonable cause. In the present case, no such finding has been recorded by the Commission. The impugned order appears to have been passed in a mechanical manner, without due consideration of the reply furnished by the petitioner and the fact that the information sought itself lacked the necessary particulars as required under Section 6(1)(b) of the RTI Act, 2005.
- 13.** This Court is of the considered opinion that the conduct of the petitioner does not attract the penal provisions of the RTI Act, 2005, as there is no material to suggest that he had intentionally withheld information or acted in a mala fide manner. On the contrary, the petitioner acted within the framework of law by pointing out the vagueness in the application and inviting a proper request for facilitating disclosure.
- 14.** The State Information Commission, while exercising quasi-judicial powers, was required to record specific findings regarding misconduct and absence of reasonable cause before initiating penalty proceedings. The failure to adhere to such mandatory



requirements vitiates the impugned order, rendering it unsustainable in law.

15. Consequently, the writ petition deserves to be and is hereby allowed. The impugned order dated 07.09.2022 passed by respondent No. 1, including the direction to furnish information, recovery of cost, and initiation of proceedings under Sections 20(1) and 20(2) of the RTI Act, 2005, is quashed and set aside.
16. There shall be no order as to costs.

Sd/-
(Amitendra Kishore Prasad)
Judge

Yogesh