
Birendar Singh	...	...	Appellant
Versus			
The State of Jharkhand & Others...	...	...	Respondents

For the Appellant : Mr. Vikas Kumar, Advocate
For the Respondents : Mr. Manish Kumar, Sr. S.C.-II

I.A. No.9322 of 2025

- 1.** The instant interlocutory application has been filed for condonation of delay of 31 days in filing the instant appeal.
- 2.** Heard learned counsel for the parties.
- 3.** Having regard to the averments made in this application, we are of the view that the appellant was prevented by sufficient cause from preferring the appeal within the period of limitation.
- 4.** Accordingly, I.A. No.9322 of 2025 is allowed and the delay of 31 days in preferring the appeal is condoned.

5. Learned counsel for the appellant has submitted that it is a peculiar case where the writ petitioner/appellant, who is the information seeker, has made an application for getting information.

6. He has further submitted that as per the provision of Section 5 of the Right to Information Act, 2005 which provides that the information is to be provided by the Public Information Officer within the statutory period of 30 days and if the information is not being provided within the aforesaid statutory period, then the information seeker, is to file appeal at the first stage, as provided under Section 19(1) of the R.T.I. Act, 2005.

7. The appellant filed appeal even then the information has not been provided. Thereafter, he was to approach before the State Information Commission as provided under Section 19(3) of the R.T.I. Act, 2005 but the State Information Commission since is not functional due to non-availability of Chairman and its Members, hence, the extra ordinary jurisdiction conferred to this Court under Article 226 of the Constitution of India has been invoked by filing writ petition being W.P.(C) No.49 of 2025.

8. The learned Single Judge, however, has dismissed the writ petition with the liberty to take further recourse as available under the Right to Information Act.

9. Learned counsel for the appellant has submitted that since the State Information Commission is not functional, he cannot avail the recourse available under the Right to Information Act, 2005 and hence, he has filed the present appeal.

10. This Court is not in a position to dispute what has been argued by the learned counsel appearing for the appellant.

11. It needs to refer herein that the Government of India enacted the Right to Information (RTI) Act, 2005, which allows Indian citizens to obtain any information that the Government or its institutions have available to them, thereby increasing accountability between the State and the people and enhancing the processes of democracy.

12. We are living in the regime of providing remedy to the litigants concerned and for the aforesaid purpose, the Right to Information Act, 2005 has been enforced wherein forum has been carved out for getting the information for the purpose of following the fairness and transparency in discharge of official duty of one or the other public servants.

13. As per the mandate, the State Information Commission is to be there to act as a second appellate forum but the forum is not functioning, as has been submitted, since long.

14. Reference can also be made to the 2019 judgement of the Supreme Court in the case of **Anjali Bhardwaj v. Union of India, (2019) 18 SCC 246**, wherein the Hon'ble Apex Court directed the state Governments to fill up the vacancies in the Information Commission and advised the government to make timely appointments.

15. But very surprisingly, the State Government is not bothering for proper functioning of the State Information Commission by not appointing the Chairman and other Members and the State Information Commission is not functional.

16. The question is that if such is the situation then the right which has been conferred to one or the other under the fold of “Right to Information Act, 2005”, what remedy is available to them and how the statutory provision as contained under the Right to Information Act, 2005 will be given effect to, consequence is filing of writ petition like present one overburdening the High Court to act as a forum of first instance.

17. The action of the State in not allowing the State Information Commission to be functional, therefore, is not only contrary to the statutory command but also in violation to the spirit of the Constitution of India.

18. However, before passing further necessary order, the matter is being posted in the first week of January, 2026 so that the update be given regarding making the State Information Commission functional.

19. It is made clear that if by the next date of hearing the State Information Commission will not be made functional then the Court will take *suo motu* cognizance by initiating contempt against the State for sitting upon the statutory

command as also upon the judgment passed by the Hon'ble Apex Court which is binding under Article 141 read with Article 144 of the Constitution of India.

20. List this matter on 07.01.2026.

(Sujit Narayan Prasad, J.)

(Arun Kumar Rai, J.)

12th December, 2025

Birendra/