

IN THE HIGH COURT OF JHARKHAND AT RANCHI

L.P.A.No. 383 of 2025

Birendra Singh ... Appellant

Versus

The State of Jharkhand & Ors. ... Respondents

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**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI**

For the Appellant : Mr. Vikas Kumar, Advocate

For the Resp.-State : Mr. Manish Kumar, Sr. S.C.-II

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Order No.04/dated 7th January, 2026

The reference may be made to the order dated 12th December, 2025, for ready reference, the same is being reiterated herein:

I.A. No.9322 of 2025

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.

L.P.A. No.383 of 2025

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.

2. We have taken into consideration the mandate of Right to Information Act as referred in paragraph 16. The reason for the same is that due to non-functional of the State Information Commission, the litigant concerned is being deprived from the

forum to prefer second appeal in view of the second proviso to Section 19 (3) of the R.T.I. Act, 2005.

3. This Court taking note of the ratio laid down by the Hon'ble Apex Court in the case of **Anjali Bhardwaj vrs. Union of India, (2019) 18 SCC 246** has passed an order in paragraph 18 and 19, which is once again being referred herein.

18. There is a definite link between right to information and good governance. In fact, the RTI Act itself lays emphasis on good governance and recognises that it is one of the objective which the said Act seeks to achieve. The RTI Act would reveal that four major elements/objectives required to ensure good governance are:

(i) Greater transparency in functioning of public authorities.

(ii) Informed citizenry for promotion of partnership between citizens and the Government in decision-making process.

(iii) Improvement in accountability and performance of the Government.

(iv) Reduction in corruption in the government departments.

19. The right to information, therefore, is not only a constitutional right of the citizens but there is now a legislation in the form of the RTI Act which provides a legal regime for people to exercise their fundamental right to information and to access information from public authorities. The very Preamble of the Act captures the importance of this democratic right which reads as under:

"... democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;"

4. An affidavit has been filed showing therein that one advertisement has been issued on 05.11.2025. There is no further update on that. The State Information Commission is non-functional since long. But the advertisement has been said to be issued on 05.11.2025 without referring any reason thereof as to why after such a belated date, the advertisement has been issued. This Court has clarified, as referred in paragraph 19, 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.

5. Mr. Manish Kumar, learned Sr. S.C.-II appearing for the State of Jharkhand has submitted that since the advertisement has been issued on 05.11.2025 and as such the State is in the process of making the State Information Commission functional.

6. No further update is there in the counter-affidavit.

7. However, in order to give a chance to the State in the Court proceeding as per the paragraph 19 of the order dated 12th December, 2025 this Court has thought it proper to call upon the entire record pertaining to the selection process for the purpose of making the State Information Commission functional.

8. Let the Principal Secretary, Personnel, Administrative Reforms and Rajbhasha Department, Govt. of Jharkhand Ranchi appear along with the record tomorrow i.e. on 08.01.2026 at 10:30 a.m. to be taken up as a first case.

(Sujit Narayan Prasad, J.)

(Arun Kumar Rai, J.)