

IN THE HIGH COURT OF JHARKHAND AT RANCHI

L.P.A. No. 383 of 2025

Birendar Singh **Appellant**
Versus
The State of Jharkhand & Ors. **Respondents**

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Appellant(s) : Mr. Vikash Kumar, Advocate
For the Resp.(s) : Mr. Manish Kumar, Sr.S.C.II;
Mr. Shray Mishra, AC to AG

Order No.07/Dated:10th March, 2026

1. It is a case where this court has passed an order on 12.12.2025 in the matter where the order passed by the writ court dated 20.02.2025 in W.P.(C) No. 49 of 2025 has been challenged by filing the instant Letters Patent Appeal.
2. This Court has posed a specific query as to why the State Information Commission has not been made functional and also by referring the judgment passed by the Hon'ble Apex Court in the case of *Anjali Bhardwaj v. Union of India, (2019) 18 SCC 246*. This court has granted time before passing further necessary order for update regarding making the State Information Commission functional, making it clear that if 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.
3. For ready reference, the order dated 12.12.2025 is quoted herein under:

“Order No.03: Dated 12th December, 2025

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.

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. The 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 judgment 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. The matter was posted on 7th January, 2026 and, on that date, an affidavit showing the issuance of advertisement dated 05.11.2025 has been filed but there was no further update. The State Information Commission, State of Jharkhand is not functional since long. This Court again in order to give a chance to the State thought it proper to call upon the entire records pertaining to the selection process for the purpose of making the State Information Commission functional directing the Principal Secretary, Personnel, Administrative Reforms and Rajbhasha Department, Govt. of Jharkhand to appear along with the records on 08.01.2026.

3. The matter was again posted on 08.01.2026. The Principal Secretary, Personnel, Administrative Reforms and Rajbhasha Department, Govt. of Jharkhand was present in the Court. The submission was made on behalf of the State, in presence of the Principal Secretary, Personnel, Administrative Reforms and Rajbhasha Department, Govt. of Jharkhand that the process is to be finalized by the Selection Committee which comprises of the Chief Minister of the State, Leader of the Opposition and other nominated members. On that date keeping the facts into consideration this Court thought it proper that the

Chief Secretary since is a party to the proceeding and, as such, the Chief Secretary, Govt. of Jharkhand has been called upon to file an affidavit stating the time frame for making the State Information Commission functional. It has further been clarified that if there is no specific response by the Chief Secretary, then the court will not hesitate in imploding the Selection Committee as party to the proceeding.

4. At paragraph no.17 of the order dated 08.01.2026, the Chief Secretary, Govt. of Jharkhand and the Secretary, Personnel, Administrative Reforms and Rajbhasha Department, Govt. of Jharkhand have been directed to appear physically on the next date and the matter was adjourned to be listed on 29.01.2026.

5. The Chief Secretary, State of Jharkhand and the Secretary Personnel, Administrative Reforms and Rajbhasha Department, Govt. of Jharkhand had appeared on 29.01.2026. An affidavit was filed by the Chief Secretary, State of Jharkhand stating specifically at paragraph no.2 that process for appointment of Chairman and Members of the State Information Commission is at final stage and that the State Information Commission is expected to be made functional within a period of four weeks.

6. This Court has posed a question on that date to the learned Advocate General in presence of the officers concerned that why a word “expected” has been mentioned in paragraph no.2 of the aforesaid affidavit, the learned Advocate General has submitted that the State will take all sincere endeavour to make the State Information Commission functional within four weeks.

7. This Court considering the aforesaid submissions had adjourned the matter by granting four weeks’ time directing for its listing on 27.2.2026 and the personal appearance of Mr. Avinash Kumar, the Chief Secretary, State of Jharkhand and Mr. Prawin Kumar Toppo, the Secretary Personnel, Administrative Reforms and Rajbhasha Department, Govt. of Jharkhand was dispensed with.

8. Today, Mr. Manish Kumar, the learned Senior Standing Counsel No.II has submitted on instruction that the first round of talk has only been reported to be done. This Court on getting such instruction has posed a question to the learned Senior Standing Counsel No.II that once the Chief Secretary, Govt. of Jharkhand has furnished the time line for making the State Information Commission functional on the basis of the fact that the process of appointment of the Chairman and Members of the State Information Commission is at final stage, as has taken note in paragraph no.3 of the order dated 29.01.2026, why the State Information Commission has not made functional rather only the talks are going on said to be at the stage of first round, as has been submitted by the learned Senior Standing Counsel No.II.

9. This Court, therefore, is of the view that as has been noted in paragraph no.15 of the order dated 08.01.2026 whereby and whereunder we have already expressed our view that if there will be no specific response by the Chief Secretary, Govt. of Jharkhand, then the Court will not hesitate in impleading the Selection Committee as party to the proceeding. However, the affidavit has been filed on behalf of the Chief Secretary giving the time frame of four weeks for making the State Information Commission functional but as yet the State Information Commission has not made functional. Therefore, there is no reason to further adjourn the matter granting further time to the State Government rather than this Court is of the view that the Members of the Selection Committee along with the Chairman are required to be impleaded as party to the proceeding.

10. Let specific affidavit be filed by the Principal Secretary, Personnel, Administrative Reforms and Rajbhasha Department, Govt. of Jharkhand, disclosing the name of the Chairman and Members of the Selection Committee for their impleadment as party to the proceeding.

11. This matter is being adjourned to be listed on 23.3.2026.

12. Necessary order will be passed on the next date of hearing with respect to the non-compliance of the undertaking filed by the Chief Secretary of the State of Jharkhand.

(Sujit Narayan Prasad, J.)

Date: 10th March, 2026
KNR/

(Deepak Roshan, J.)