

IN THE HIGH COURT OF JHARKHAND AT RANCHI
(Civil Writ Jurisdiction)
W.P. (C) No. 2171 of 2019

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Deepak Kumar Petitioner
Versus
The State of Jharkhand & Others Respondents

CORAM: HON'BLE MR. JUSTICE KAILASH PRASAD DEO

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For the Petitioner : None.
For the Respondents/State : Mr. Karan Shahdeo, A.C. to
Mr. Prabhat Kumar, S.C.-II.

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The matter is being taken up through Video Conferencing. Learned counsel for the respondents have no objection with it and submitted that the audio and video qualities are good.

07/25.11.2022.

Nobody appears on behalf of the petitioner though learned counsel for the respondents / State, Mr. Karan Shahdeo, A.C. to Mr. Prabhat Kumar, S.C.-II is present.

It appears that Deepak Kumar, the then Deemed Public Information Officer-cum-Executive Engineer, National Rural Employment Program-1, Ranchi (Jharkhand) and presently posted as Executive Engineer, Buiding Division, Near Carmel Chowk, P.O. & P.S. & District – Hazaribag (Jharkhand) has been saddled with Rs. 25,000/- as penalty to be realized from his monthly salary in five equal installments of Rs. 5,000/- per month under provision of Section 20 (1) of Right to Information Act, 2005 and further a sum of Rs., 25,000/- has been granted as compensation to the applicant / respondent no. 8 under the provisions of Section 19 (8)(b) of the Right to Information Act, 2005 in terms of order dated 11.05.2016 passed by learned Information Commissioner, Jharkhand, Ranchi as contained in Memo No. 10969 Ranchi dated 18.05.2016 in Appeal No. 2846/2014.

It appears from record that private respondent no. 8, Indu Devi has applied for certain information under Right to Information Act, 2005, vide an application dated 26.06.2014, which was not provided. A reply was received from respondent no. 4 within stipulated time of 30 days vide Letter contained in Memo No. 828 (ii) / Vi. dated 14.07.2014 making it clear that her application for seeking information is rejected / not accepted due to paucity of

prescribed fees and also in absence of non-submission of corresponding BPL number.

It further appears from the record that thereafter the appellant / respondent no. 8 has preferred first appeal on 06.08.2014 before the appellate authority, which was replied vide Letter contained in Memo No. 961 (ii) / Vi. dated 12.08.2014. It is made clear that her original application dated 26.06.2014 was rejected and the same was duly communicated vide office letter contained in Memo No. 828 (ii) / Vi. dated 14.04.2014. Thereafter, the second appeal was preferred before the Chief Information Commissioner, Jharkhand by submitting one application on 19.08.2014 and learned Information Commissioner has passed the impugned order.

It appears to the Court that within 30 days, refusal has been communicated to the applicant mentioning the reason that due to paucity of prescribed fees and also in absence of non-submission of the corresponding BPL number, her application was rejected. The applicant has not clarified the same and has preferred first appeal which was dismissed and then second appeal, which was impugned herein, whereby the Information Commissioner has put a cost of Rs. 25,000/- under Section 20(1) of the Right to Information Act and compensation of Rs. 25,000/- under Section 19 (8)(b) of the Act without considering both the orders, which is bad in law as the Delhi High Court in the case of *N.T.P.C. Ltd. v. Mohd. Samad Khan* reported in **2010 SCC Online Del 1049** has decided that to pay compensation, first the court has to assess that what loss has caused to the parties because of non-furnishing of document. In the present case, it appears to this Court from the pleadings of the petitioner that Information Seeker Indu Devi has defaulted in providing the prescribed fees as well as non-submission of corresponding BPL number and thus a valid reason was there for the Public Information Officer to reject the same.

Let notice be issued upon the Indu Devi, Daughter of not known to the petitioner, resident of Village - Kanouz, P.O.- Banapidi, P.S. - Ratu, District - Ranchi under speed post, for which requisites etc. must be filed by 02.12.2022.

Office is directed to track the speed post.

Put up this case after service of notice.

In the meantime, learned counsel for the respondents / State, Mr. Karan Shahdeo, A.C. to Mr. Prabhat Kumar, S.C.-II is directed to file counter affidavit in this matter.

In the meantime, impugned order dated 11.05.2016 passed by the Information Commissioner, Jharkhand, Ranchi is hereby stayed.

Let a copy of order be communicated to the Jharkhand State Information Commission.

(Kailash Prasad Deo, J.)

Sunil/-