

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No. 3589 of 2010

Raj Kishore Prasad, S/o Late Yamuna Prasad, R/o C-Type Quarter, Irrigation, Campus, P.O. & P.S.-Mahagama, District-Godda, presently posted as Executive Engineer, Irrigation Division, Godda Camp Mahagama, Water Resources Department Petitioner

Versus

1. The Jharkhand State Information Commissioner through its Secretary having office at Engineering Hostel No.-2, HEC Campus, Near Golchakkar, P.O. & P.S.-Dhurwa, District-Ranchi, PIN-834004
2. Shir Pawan Kumar Mahto, S/o not known to the petitioner, R/o Village-Gansagar (Balua), P.O. & P.S.-Mahagama, District – Godda
3. The State of Jharkhand ... Respondents

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Petitioner	: Mr. Bhanu Kumar, Advocate Mr. Rajneesh Vardhan, Advocate
For JSIC	: Mr. Sanjay Piprawall, Advocate Mr. Rakesh Ranjan, Advocate
For the State	: Mr. Vineet Prakash, AC to SC-IV

Order No. 11 / Dated : 09.07.2025.

1. The instant writ petition has been filed for quashing the order dated 26.03.2010 passed by the Information Commissioner in Appeal No. 1495 of 2009 by which a penalty of Rs. 25,000/- and compensation of Rs. 80,000/- have been imposed.
2. As per the impugned order, an information was sought for by Pawan Kumar Mahto on 21.07.2009. The following information were sought for as under:
 - i. मौजा गनासागर जमाबन्दी नं. 3 दाग नं. 168 में आवास निर्माण से संबंधित कागजात 1970-71 से वर्ष 2003-2004 तक आपके कार्यालय अंतर्गत बनाई गई है का योजना संख्या, योजना स्वीकृति की तिथि, कुल प्राक्कलित व्यय राशि, मापी गई के अनुसार किए गए कार्य की राशि, योजना की भौतिक स्थिति, प्राक्कलन की मापो पुस्तिका एवं निर्माण किये गये भूखण्ड की मानचित्र की छायाप्रति अभिप्रमाणित कर उपलब्ध कराई जाय।
 - ii. इन मामलों में से प्रत्येक में अवैध कब्जा भूमि का क्षेत्रफल बताएं।
 - iii. ये अवैध कब्जा किस आधार पर रखे हैं, विवरण दें:
 - iv. क्या इन अवैध कब्जा के बारे में विभाग को पहले से पता है, यदि हां तो बताएं
 - v. इन अवैध कब्जा कर रखने से संबंधित भूमि का सभी फाइलों तथा दस्तावेजों का मैं निरीक्षण करना चाहता हूँ। कृप्या मुझे दिन, समय तथा स्थान के बारे में सूचित करें के लिए आ सकूँ।
 - vi. उन सभी अधिकारी के नाम, पद तथा संपर्क का पूरा बताएं जो जमाबन्दी नं. 3

दाग नं. 168 की भूमि से अवैध कब्जा को हटाना नहीं चाहते हैं।

- vii. बी.पी.पी.ई. केश नं.2/2008 के आदेशानुसार मापी गई भूमि के बाद शेष अवैध कब्जा भूमि आपके द्वारा कब तक खाली कर दिया जायेगा।
 - viii. निम्न सूचना प्राप्त करने के लिए मैं दिनांक 7/1/09 पोस्टल ऑर्डर संख्या 7SE 790848 साथ में संलग्न कर भेज रहा हूँ कृपया समय सीमा के अन्दर सूचना उपलब्ध कराई जाय।
3. The said information was not furnished and consequently, the applicant moved the State Information Commission by which the impugned order has been passed. The requisite information was furnished vide Letter No. 654, Mahagama on 10.12.2009 by the office of Executive Engineer, Irrigation Department, Godda (Annexure-6 Series). Being not satisfied with the said information, the applicant (respondent no. 2) moved the State Information Commissioner by which the impugned order has been passed.
 4. It is argued by learned counsel on behalf of the petitioner that this is a case which shows a flagrant misuse of the beneficial provision of R.T.I. Act, 2005. As a matter of fact, the petitioner and his father had encroached over govt land regarding which BPLE Case No. 02/2008 was initiated and order to remove encroachment was made.
 5. Against the said order, respondent no. 2 moved this Court in W.P. (C) No. 4245 of 2008 and W.P. (C) No. 5594 of 2015 which were dismissed. Subsequent thereto, the information was sought for and furnished. The respondent no. 2 did not stop there, he again sought for almost identical information on 20.01.2011. The information was furnished, but being not satisfied with the said information, appeal was preferred before the State Information Commissioner in which the penalty was imposed. One Naresh Prasad Mandal, the then Executive Engineer, who was the Public Information Officer, preferred W.P. (C) No. 1253 of 2016 in which the matter was dealt with at length and the impugned order was set aside.
 6. It is submitted by learned counsel on behalf of the petitioner that facts of the present case are squarely covered with the judgment already rendered by this Court in W.P. (C) No. 1253 of 2016.
 7. It is submitted by the learned counsel on behalf of the State Information Commission that the point, that is being raised at this stage, was not raised before the State Information Commission and furthermore, order of compensation cannot be challenged by the Public Information Officer since

that compensation has to be paid by the department concerned. The penalty is liable to be imposed, if necessary information is not furnished within the statutory period of 30 days.

8. This is yet another case which demonstrates how beneficial provision of law can be misused to harass a public servant. An order of eviction from public land is passed against Respondent No.2 in a proceeding under Public Land Encroachment Act. The said order attains finality and dismissal of writ petition filed against the said order.
9. Respondent No.2 seeks a long list of information which is also furnished. Almost identical information is sought for in another R.T.I. application. On both occasions, the information is furnished. Surprisingly enough, learned Information Commissioner finds the same to be adequate. Co-ordinate Bench of this Court has already decided the analogues matter setting aside the impugned order. The order impugned in the present case is on similar footing which is, accordingly, set aside.

Writ petition is, accordingly, allowed.

Pending I.A., if any, stands disposed of.

(Gautam Kumar Choudhary, J.)

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