

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15830 of 2016

Sudhanshu Kumar Chaubey S/o Late Sitaram Chaubey R/o Bhawani Palace,
Flat No. 202, P.S. Sri Krishna Puri, District - Patna

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Deputy Secretary, State Information Commissioner, Bihar, Patna
3. The Section officer, State Information Commissioner, Bihar
4. Sri Surendra Prasad Yadav S/o Sri Janakdhari Prasad Yadav Resident of
village - Kurkuri, P.O. P.S. Phulwarisarif, District - Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pawan Kumar, Advocate
For the Respondent/s	:	Mr. Manish Kumar AC to AAG-6
For the SIC	:	Mrs. Binita Singh, Advocate
For the Resp. No. 4	:	Mr. Suresh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT

Date : 04-12-2025

Heard Mr. Pawan Kumar, learned counsel for the petitioner, Mrs. Binita Singh representing the State Information Commission (for brevity 'the Commission'), Mr. Suresh Kumar, learned counsel for the respondent no. 4 and Mr. Manish Kumar, learned AC to AAG-6.

2. The present petition has been preferred for the following relief(s):

“for quashing the order dated 28.09.2015 passed in case no. 76147/12-13 by State Information Commissioner, Bihar whereby and where under penalty of Rs. 25,000/- has been imposed under section 20(1) of the Right to Information Act, 2005 and further for quashing



the all subsequent orders after first order dated 28.09.2015 passed in Case No. 76147/12-13 imposing penalty upon the petitioner and/or pass such other order/orders as your Lordship may deem fit and proper in the fact and circumstances of the case.”

3. On 04.04.2012, the respondent no. 4 sought information from the office of the petitioner who was then holding the post of Deputy Collector Land Reforms, Sadar, Patna. It is to be noted that he joined the post on 12.07.2012 and as per the information given by him to ‘the Commission’, the petitioner handed over the charge of the said post on 14.08.2015. The information sought for amongst the other were:

“(i) how many mutation applications have has been received by the office of Circle Office, Phulwarisarif till 31.03.2012;

(ii) the period within which the applications were disposed of;

(iii) if there was delay in disposal, whether fine was imposed upon the Circle Officer, Phulwarisarif or not.”



4. As per the document on record, the then Deputy Collector, Land Reforms, Sadar, Patna asked the Circle Officer, Phulwarisarif vide letter dated 30.06.2012 (Annexure-3 to the petition) to provide the information. It shows that the then Deputy Collector Land Reforms, Sadar, Patna promptly took note of the information sought for by the respondent no. 4.

5. On 12.07.2012, the petitioner came into the shoes of the earlier officer and vide letter no. 1357 dated 06.09.2012, it was informed by him to the respondent no. 4 that he should seek the aforesaid information from the Circle Officer, Phulwarisarif (Annexure-4 to the petition). This followed First Appeal and Second Appeal by the respondent no. 4 which came to be numbered as Case No. 76147/2012-13. It is to be noticed that after the appeal filed, came the aforesaid order by which the respondent no. 4 was directed to seek the information from the Circle Officer, Phulwarisarif.

6. The case of the petitioner is that subsequently, the Circle Officer, Phulwarisarif gave the information to the respondent no. 4 (annexure-12 to the petition). The submission is that these facts were duly provided/was in the domain of 'the Commission' and before the final hearing that



took place on 28.09.2015, he was already transferred on 12.08.2015 whereafter the petitioner assumed the charge of the new post on 14.08.2015 in the Bihar State Housing Board. He as such, could not appear which followed the order.

7. An order came to be passed on **28.09.2015** by ‘the Commission’ when both the parties were absent. ‘The Commission’ after going through the records observed that the Public Information Officer was repeatedly given chance which was not availed by him. Accordingly, a fine of Rs. 25,000/- was imposed upon him under **Section 20(1) of the Right to Information Act, 2005** (henceforth for short ‘the Act’). This was communicated to the petitioner vide **memo no. 11920 dated 01.10.2015** (annexure-14 to the petition).

8. The petitioner thereafter wanted review of the order which was taken up by ‘the Commission’ on **27.11.2015** and it elaborated the earlier order dated 28.09.2015 by recording that on 10.09.2014, the petitioner was asked to answer why:

(i) the information was not given;

(ii) the fine be not imposed under section

20(1) of ‘the Act’.

9. ‘The Commission’ recorded that the petitioner



failed to submit its show-cause beside not providing the information to the respondent no. 4 in time. It also recorded that the charge was handed over by the petitioner on 14.08.2015. However, taking note of the fact that the notice was issued on 10.09.2014, he was given an opportunity which he did not avail and as such, the order dated 28.09.2015 has to be executed.

10. This order was passed and communicated vide memo no. 13991 dated 16.12.2015 (annexure-15 to the petition).

11. Aggrieved, the present writ petition.

12. Learned counsel for the petitioner submits that a perusal of the information sought for by the respondent no. 4 would show that actually, the same could have been obtained from the Circle Office, Phulwarisarif. Still, his predecessor immediately directed the Circle Officer, Phulwarisarif to give necessary information. Subsequently, vide an order dated 06.09.2012, he was asked to seek information from the Circle Officer, Phulwarisharif. Lastly, the necessary information was given on 06.08.2014, copy whereof was also given to 'the Commission'.

13. The submission is that the petitioner got



transferred on 12.08.2015, gave the charge on 14.08.2015 and as such, there was no appearance on 28.09.2015 when the order in question was passed. He wanted a review which was rejected on 27.11.2015. As such, the order needs interference.

14. Learned counsel representing 'the Commission', Mrs. Binita Singh, on the other hand, opposes the prayer submitting that on the day, the notice was issued, petitioner was very much in the office and remained so for the next eleven months. Though he claims that the copy of the information was given to the respondent no. 4 and was also forwarded to 'the Commission', there is nothing on record/acknowledgment to prove this point. The submission is that in any case, the notice wanted him to reply on two counts:

(i) why the information has not been given;

(ii) secondly, why fine be not imposed under section 20(1) of 'the Act'.

15. She submits that it is not the case of the petitioner that at any point of time, he submitted show-cause on the second point. These facts have already come in the two orders passed by 'the Commission' As such, the petition lacks merit and fit to be dismissed.



16. Having heard the parties and after perusing the record, it is an accepted fact that the predecessor of the petitioner promptly acted in the matter and sought information from the Circle Officer, Phulwarisarif. However, when the petitioner joined the post, it seems that he got lost in taking the matter further and closing the case by ensuring supply of necessary information to the respondent no. 4.

17. Second appeal came to be filed before 'the Commission'. He was noticed, the matter again should have been pursued in a professional manner and the show-cause sought must have been answered within the time frame stipulated by 'the Commission'. He failed to do so. Further, as pointed out by the learned counsel for 'the Commission', even the information given to the respondent no. 4 was not enumerated as there is no acknowledgment.

18. Section **20(1)** of '**the Act**' read as follows:

“20(1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as



the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees;

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently



shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.”

19. ‘The Commission’ looked into all these facts and only thereafter, it passed the orders dated 28.09.2015 and 27.11.2015. The same is reasoned one and need no interference.

20. The purpose behind ‘the Act’ is/was to empower the citizen to know about the functioning of the Government. It transformed them from subject to active participant by knowing how the Government works. It also makes an Officer accountable, fulfilling the essence of a Democratic Republic. By not providing necessary information: if one tries to defeat the very purpose for which ‘the Act’ was brought, ‘the Commission’ in that circumstance has to act.

21. The writ petition lacks merit. However, this Court has taken note of the fact that the petitioner was not in the office when the order came to be passed and as there was no representation by the next incumbent before ‘the Commission’, it could not know about the updates, in the said background, the fine imposed upon the petitioner will not in any way affect his service career or shall be taken up for



consideration.

22. Lots of water has flown down the ganges after the order was passed, it is high time that the petitioner pays the fine amount to the respondent no. 4 in the next four weeks. Failure to do so, the respondent no. 4 shall be entitled to an additional cost of Rs. 5,000/- after four weeks to be paid by the petitioner.

23. The writ petition stands disposed of with the aforesaid observation.

(Rajiv Roy, J)

Adnan/-

AFR/NAFR	AFR
CAV DATE	N/A
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