

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE SHEEL NAGU
WP. No.472 of 2022

Between:-

**R.L. OSARI S/O LATE SHRI LALA OSARI
AGED ABOUT 52 YEARS, OCCUPATION:
SECRETARY R/O. H. NO. HIG-31, KANHA
KUNJ KOLAR ROAD, BHOPAL
(MADHYA PRADESH)**

.....PETITIONER

(BY SHRI RAJMANI MISHRA, ADVOCATE)

AND

- 1. INFORMATION COMMISSIONER, M.P.
STATE INFORMATION COMMISSION,
35-B, SUCHANA BHAWAN ARERA HILLS,
BHOPAL (MADHYA PRADESH)**
- 2. SHRI B.L. JATAV S/O NOT KNOWN,R/O
G-8, PWD COLONY SAKET NAGAR,
HOSHANGABAD (MADHYA PRADESH)**

.....RESPONDENTS

***(RESPONDENT NO.1 BY SHRI, V.S. CHOUDHARY,
ADVOCATE)***

***(RESPONDENT NO.2/CAVEATOR BY SHRI ASHISH
SHROTI, ADVOCATE)***

(STATE BY MS. PAPIYA GHOSH, PANEL LAWYER)

WP. No.619 of 2022

Between:-

**R.L. OSARI S/O LATE SHRI LALA
OSARI AGED ABOUT 52 YEARS,
OCCUPATION: SECRETARY R/O. H.
NO. HIG-31, KANHA KUNJ KOLAR
ROAD, BHOPAL (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI RAJMANI MISHRA, ADVOCATE)

AND

- 1. INFORMATION COMMISSIONER
THROUGH SECRETARY, M.P. STATE
INFORMATION COMMISSION, 35-B,
SUCHANA BHAWAN ARERA HILLS,
BHOPAL (MADHYA PRADESH)**
- 2. SHRI B.L. JATAV S/O NOT KNOWN,R/O
G-8, PWD COLONY SAKET NAGAR,
HOSHANGABAD (MADHYA PRADESH)**

.....RESPONDENTS

***(RESPONDENT NO.1 BY SHRI, V.S. CHOUDHARY,
ADVOCATE)***

***(RESPONDENT NO.2/CAVEATOR BY SHRI ASHISH
SHROTI, ADVOCATE)***

(STATE BY MS. PAPIYA GHOSH, PANEL LAWYER)

WP. No.2828 of 2022

Between:-

**R.L. OSARI S/O LATE SHRI LALA
OSARI AGED ABOUT 52 YEARS,**

**OCCUPATION: SECRETARY R/O. H.
NO. HIG-31, KANHA KUNJ KOLAR
ROAD, BHOPAL (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI RAJMANI MISHRA, ADVOCATE)

AND

- 1. INFORMATION COMMISSIONER
THROUGH SECRETARY, M.P. STATE
INFORMATION COMMISSION, 35-B,
SUCHANA BHAWAN ARERA HILLS,
BHOPAL (MADHYA PRADESH)**
- 2. SHRI B.L. JATAV S/O NOT KNOWN,R/O
G-8, PWD COLONY SAKET NAGAR,
HOSHANGABAD (MADHYA PRADESH)**

.....RESPONDENTS

***(RESPONDENT NO.1 BY SHRI, V.S. CHOUDHARY,
ADVOCATE)***

***(RESPONDENT NO.2/CAVEATOR BY SHRI ASHISH
SHROTI, ADVOCATE)***

(STATE BY MS. PAPIYA GHOSH, PANEL LAWYER)

WP. No.2832 of 2022

Between:-

**R.L. OSARI S/O LATE SHRI LALA
OSARI AGED ABOUT 52 YEARS,
OCCUPATION: SECRETARY R/O. H.
NO. HIG-31, KANHA KUNJ KOLAR
ROAD, BHOPAL (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI RAJMANI MISHRA, ADVOCATE)

AND

1. **INFORMATION COMMISSIONER THROUGH SECRETARY, M.P. STATE INFORMATION COMMISSION, 35-B, SUCHANA BHAWAN ARERA HILLS, BHOPAL (MADHYA PRADESH)**
2. **SHRI B.L. JATAV S/O NOT KNOWN,R/O G-8, PWD COLONY SAKET NAGAR, HOSHANGABAD (MADHYA PRADESH)**

.....RESPONDENTS

(RESPONDENT NO.1 BY SHRI, V.S. CHOUDHARY, ADVOCATE)

(RESPONDENT NO.2/CAVEATOR BY SHRI ASHISH SHROTI, ADVOCATE)

(STATE BY MS. PAPIYA GHOSH, PANEL LAWYER)

Reserved on : 22.06.2022

Passed on : 26.09.2022

ORDER

This common order shall govern the disposal of WP. Nos. 472/2022, 619/2022, 2828/2022 and 2832/2022, all filed by same petitioner but in respect of three cases.

2. Aforesaid four petitions have been filed by the same petitioner aggrieved by orders passed by State Information Commissioner u/S.20 of Right to Information Act, 2005 (for brevity “Act of 2005”) imposing penalty of Rs.25,000/- to each of the four cases against the petitioner

and recommending for taking disciplinary action after finding the petitioner, a Public Information Officer with M.P. Rajya Beej Avam Farm Vikas Nigam, Bhopal, to have delayed supplying of information to private respondent in each of four cases.

3. Learned counsel for the rival parties are heard on the question of admission so also on final disposal.

4. Learned counsel for the petitioner, Shri Rajmani Mishra relying upon the decision of Single Bench of this Court in the case of ***S.P. Gautam (Dr.) vs. Information Commissioner (2015) 2 MPWN 23, Dr. G.K. Jais vs. Information Commissioner (2015) 2 MPWN 138*** and stay order dated 23.11.2020 passed in WP. No.17433/2020 (***R.L. Osari vs. Information Commissioner***) contends that order of State Information Commissioner dated 25.11.2021 (Annexure P/1) is unreasonable, arbitrary, malafides and is based on conjecture and surmises and passed without following the principles of natural justice.

5. Learned counsel for the respondent No.2, Shri Ashish Shrotri contends that information sought by private respondent was supplied but with considerable delay despite orders of Appellate Authority, therefore compelling the respondent No.1 to pass order dated 25.11.2021 by exercising its penal powers u/S.20 of Act of 2005, which is couched in mandatory language. It is further submitted on behalf of respondent No.2 that decisions cited by petitioner are of no avail since the petitioner therein was not a Public Information Officer. As far as

interim order dated 23.11.2020 passed in WP. No.17433/2020 is concerned, it is urged that the same is further of no avail as it has no precedential value.

5.1 It is submitted by learned counsel for respondent No.2 that in WP. No.472/2022 the information was sought by an application dated 29.04.2019 (received by Public Information Officer on 30.04.2019), but complete information was not supplied by petitioner even after specific direction by Appellate Authority i.e. State Information Commissioner on 24.08.2020. Consequently, a complaint was moved by private respondent on 29.06.2021 u/S.18 of Act of 2005, which culminated into passing of impugned order dated 25.11.2021 by State Information Commissioner, which is challenged herein.

5.1 In all the connected petitions, the factual matrix is similar if not identical as enumerated above.

6. After hearing learned counsel for the rival parties, this Court is of the considered view that no case for interference is made out for the reasons infra:-

(i) Petitioner has not disputed that he was a Public Information Officer and did not supply the complete information despite the order of State Information Commissioner.

(ii) R.T.I. Act is a manifestation of fundamental right under Article 19 of Constitution of India and is promulgated with the object of providing practical regime of Right to Information for citizens to secure access

under the control of public authorities in order to promote transparency and accountability in working of every public authority under the Constitution to ensure strict adherence of time line provided for considering an application seeking information by the Public Information Officer and supply of the same to the seeker of information, Penal provisions have also been provided u/S.20 of Act of 2005, making it incumbent upon the Information Commissioners to mandatorily impose penalty @ Rs.250/- per day on the Public Information Officer for delayed supply of information sought, with the rider that the amount of penalty would not exceed to Rs.25,000/- in a particular case.

6.1 Bare reading of Section 20 reveals that no discretion is vested with the Information Commissioners as regards the rate at which penalty is to be charged or the quantum of penalty is. To prevent the provision from rendering arbitrary, a cap of Rs.25,000/- is stipulated as the maximum amount in a single case.

6.2 U/S.20 of Act of 2005 the Information Commissioner is further obliged under the law to recommend disciplinary action against the erring Public Information Officer, who *inter alia* fails to furnish information within the time prescribed u/S.7 of Act of 2005.

6.3 In view of above and the mandatory nature of Section 20 of Act of 2005, it is obvious that Information Commissioner has no discretion to reduce or relax either the rate at which penalty is to be charged or the total amount of penalty, which is worked out by applying the said rate.

Thus, reliance placed by learned counsel for petitioner on the Single Bench decision of this Court in the case of **Dr. G.K. Jais** (supra) is of no avail since Single Bench had reduced the penalty of Rs.25,000/- imposed therein to only Rs.3,000/- under the wrong assumption that Section 20 is discretionary and not mandatory. The decision of **Dr. G.K. Jais** (supra) thus appears to be an outcome of misreading of mandatory provision u/S.20 of Act of 2005 and as such is *per incuriam* Section 20 of Act of 2005 and thus, is of no avail to the petitioner. Other decision relied upon by learned counsel for petitioner in the case of **Dr. S.P. Gautam** (supra) is also of no avail since the petitioner therein was not the Public Information Officer by the Appellate Authority and yet was penalized u/S.20 of Act of 2005.

6.4 In the instant case, it is not disputed at the bar that petitioner was designated as Public Information Officer right from the stage when application seeking information was made till appellate orders by Information Commissioner were passed directing the petitioner to supply information.

7. In view of above discussion, order of State Information Officer dated 25.11.2021 (Annexure P/1) cannot be found fault with as the prerequisites of Section 20(1) and 20(2) of Act of 2005 were duly satisfied thereby compelling Information Commissioner to invoke its penal powers u/S.20 of Act of 2005.

7.1 The ground of violation of principles of natural justice is further of no avail since impugned order is a detailed and speaking order after affording due and sufficient opportunity to the petitioner to make his submissions before State Information Commissioner.

8. Consequently, present petitions are bereft of merits and are **dismissed** as such.

(SHEEL NAGU)
JUDGE

mohsin