



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF APRIL, 2023

BEFORE

THE HON'BLE MR JUSTICE N S SANJAY GOWDA

WRIT PETITION NO. 2346 OF 2011 (GM-RES)

C/W

WRIT PETITION NO. 663 OF 2011

IN W.P.No.2346/2011

BETWEEN:

CENTRAL PUBLIC INFORMATION OFFICER/
DEPUTY DIRECTOR GENERAL
DOORDARSHAN KENDRA,
J.C. NAGAR, BANGALORE
REP. BY DR. MAHSH JOSHI IB (P) S,
DEPUTY DIRECTOR GENERAL
DOORDARSHANKENDRA
BANGALORE-560 006

...PETITIONER

(BY SRI. M.D.ANURADHA URS, ADVOCATE)

AND:

1. CENTRAL INFORMATION COMMISSION
REP. BY ITS REGISTRAR CLUB BUILDING,
NEAR POST OFFICE,
OLD J.N.U. CAMPUS,
NEW DELHI-110 067
AND ALSO AT:
CENTRAL INFORMATION COMMISSION
REP. BY ITS REGISTRAR
II FLOOR, 'B' WING
AUGUST KRANTI BHAVAN
BHIKAJI CAMA PLACE
NEW DELHI-110 066





2. SRI. B ASHOKA HELPER SPT,
ALL INDIA RADIO,
YELAHANKA NEW TOWN,
AGED ABOUT 48 YEARS,
S/O LATE A.R.BASAVIAIAH,
R/A NO. 26/1, BENSON ROAD,
BENSON TOWN,
BANGALORE-560 046
3. SRI. K MOHAN RAM,
DEPUTY DIRECTOR (RETD),
DOORDARSHAN,
AGED ABOUT 60 YEARS,
S/O LATE SRI KRISHNA IYENGAR
NO. GF-8, 'ATRIA VILLA',
PALACE GUTAHALLI,
MALLESWARAM,
BANGALORE-560 003

...RESPONDENTS

(BY SRI. MANJUNATH G. KANDEKAR, ADVOCATE FOR C/R2
SRI.P.SREEDHARA, ADVOCATE FOR R3)

THIS PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DATED: 10.12.2010 VIDE ANNEXURE-A PASSED BY THE R1, THE CHIEF INFORMATION COMMISSIONER AND TO ENSURE PRODUCTION OF THE INFORMATION, IF NEED BE, AFTER THE ADJUDICATION OF THE CRIMINAL PROCEEDINGS, NOW UNDER INVESTIGATION.

IN W.P.No.663/2011

BETWEEN:

CENTRAL PUBLIC INFORMATION OFFICER/
DEPUTY DIRECTOR GENERAL
DOORDARSHAN KENDRA, J.C. NAGAR,
BANGALORE- 560 006
REP. BY DR.MAHESH JOSHI IB(P)S
DEPUTY DIRECTOR GENERAL



**WP No. 2346 of 2011
C/W WP No. 663 of 2011**

DOORDARSHAN KENDRA,
BANGALORE 560 006

...PETITIONER

(BY SMT. M.D.ANURADHA URS, ADVOCATE)

AND:

1. CENTRAL INFORMATION COMMISSION
REPRESENTED BY ITS REGISTRAR,
CLUB BUILDING, NEAR POST OFFICE,
OLD J.N.U. CAMPUS
NEW DELHI -110 067,
AND ALSO AT
CENTRAL INFORMATION COMMISSION
REP. BY ITS REGISTRAR,
II FLOOR, 'B' WING,
AUGUST KRANTI BHAVAN,
BHIKAJI CAMA PLACE
NEW DELHI-110 066

2. SRI S.BHAJANTRI
MAJOR
S/O LATE BASAPPA BHAJANTRI
NO.154, 5TH MAIN, 2ND BLOCK
R.T. NAGAR,
BANGALROE- 560 032

...RESPONDENTS

(BY SRI. ADITYA SINGH, CGC, ADVOCATE FOR R1
SRI.MANJUNATH G. KANDEKAR, ADVOCATE FOR C/R2)

THIS PETITION IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED
ORDER DATED: .09.11.2010, VIDE ANNEXURE-B PASSED BY THE
INFORMATION COMMISSIONER R1 & FURTHER GRANT SUCH OTHER
RELIEFS AND ETC.

THESE PETITIONS, COMING ON FOR HEARING, THIS DAY, THE
COURT MADE THE FOLLOWING:



ORDER

IN W.P. No.663 of 2011:

1. The Central Public Information Officer (hereinafter referred to as 'CPIO' for convenience) has filed this writ petition challenging the order passed by the Second Appellate Authority on 09.11.2010 directing the CPIO to provide the applicant the desired information along with photo copies of the relevant documents within thirty days.
2. At the outset, the entitlement of the CPIO to present a writ petition would have to be considered.
3. The Right to Information Act, 2005 (for short 'the Act') was enacted to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities. This was in order to promote transparency and accountability in the working of every public authority. The Act declares that all citizens shall have the right to information and it creates an obligation on every public authority to maintain



its records in a manner and form which would facilitate the right to information under the Act.

4. The Act also mandates that every public authority is required to designate the officers as CPIOs or as the State Public Information Officer ('SPIO' for short) in all its administrative units so as to ensure that the information to persons requesting for the information under the Act is furnished.

5. The CPIOs and SPIOs are mandated to deal with the requests from persons seeking information and render reasonable assistance to the persons seeking such information. In fact, the CPIO or SPIO are permitted to seek the assistance of any other officer as he or she considers necessary for the proper discharge his or her duties.

6. It is thus clear that a Public Information Officer is designated with the sole purpose of ensuring that the information sought for by an applicant is furnished.



7. In this particular case, an application seeking for information was filed on 26.02.2009. Since, the information sought for was not provided, a first appeal was preferred on 09.04.2009. The First Appellate Authority directed the CPIO to furnish the information within fifteen days of order dated 05.05.2009. However, despite this order of the Appellate Authority, the CPIO did not furnish the information. This resulted in filing of the second appeal on 21.09.2009.

8. This second appeal was taken up for consideration by one Smt. Annapurna Dixit, Information Commissioner and was dismissed. However, subsequently, the case was transferred to another Bench of Sri. Satyananda Mishra.

9. This Authority considered the appeal and directed the CPIO to provide the applicant the desired information along with photo copies within ten days.

10. The CPIO, instead of complying with the order, proceeded to submit an appeal to the Chief Information



Commissioner on 19.11.2010 as per Annexure 'S'. In this appeal, the following prayer was made:

"PRAYER

In view of the background stated above, it is requested that the matter may kindly be referred to a larger Bench and the matter be decided on merits. Till the matter is heard and decided by the Larger Bench, it is requested that the order dated 19.11.2010 passed by Sri.Satyananda Mishra, Hon'ble Information Commissioner may kindly be kept in abeyance and we may be permitted to withhold the information to be given to Sri.Bhajantri, till a decision is taken by the Hon'ble Commission on the appeal aspect."

11. On the ground that no order was passed on this appeal, the CPIO has presented this writ petition challenging the order passed by the Second Appellate Authority directing him to furnish the information.

12. It is the contention of the CPIO that he had received a complaint from another officer alleging that the applicant was utilizing this Act for the purpose of collecting the



information with the objective of blackmailing certain people and therefore, he could not be provided with this information.

13. The provisions of the Act enable the Public Information Officer an exemption from disclosure of information only for the reasons set out in Section 8 of the Act. Apart from the reasons set out in Section 8 of the Act, the Public Information Officer has no authority in law to deny the request for grant of information. Admittedly, none of the grounds provided under Section 9 is applicable in this case.

14. In the instant case, for some strange reasons, the CPIO, instead of furnishing the information, has not only chosen to defy the order of the Second Appellate Authority but has also proceeded to prefer an appeal to the Chief Information Commissioner.

15. It has to be stated here that there is no provision under the Act which enables any of the parties, let alone a



Public Information Officer, to prefer an appeal against the order to the Second Appellate Authority. The fact that the CPIO has chosen to defy the order of the Second Appellate Authority and prefer an appeal and also file this writ petition indicates that the only intention of the CPIO was to deny the information sought for by the applicant.

16. It cannot be in dispute that the Act itself makes it clear that the reason for seeking the information sought need not be stated. This thereby indicates that the information sought for cannot be denied on the ground that the reason for seeking it has not been indicated. In other words, the Act clearly debars the authorities from sitting in judgment over the reason to which the request has been made for furnishing the information.

17. In fact, if this argument is to be accepted, the very Act would be rendered nugatory and the Public Information Officer would be given the status of a Judge to decide as to whether the information should or should not be furnished.



18. The role of the CPIO under the Act, as stated above, is limited. He is only required to deal with the request that has been sought for providing information. He has no other role to play under the provisions of the Act except to ensure that the request for information is either granted or refused for the reasons provided under the Act. The provisions of the Act do not confer any legal right on the Officer who has been designated as the Public Information Officer to act in an adversarial manner to the applicant who had sought for the information.

19. In this case, the Public Information Officer i.e., the present petitioner has gone on to not only deny the information, but also has chosen to challenge the orders passed by the Second Appellate Authority directing him to furnish the information.

20. It has to be stated here that under the Act, the power to prefer an appeal has been conferred only on the persons who had sought for information and no other authority has been granted the power to prefer an appeal.



It is therefore clear that the Public Information Officer had absolutely no right to either prefer an appeal to the Chief Information Commissioner or file the present writ petition.

21. The filing of the present writ petition is nothing but a brazen attempt to ensure that the order of the Second Appellate Authority directing him to furnish information is overcome. I am therefore of the view that this writ petition is not maintainable and the same deserves to be dismissed with exemplary cost.

22. The writ petition is therefore accordingly ***dismissed*** with cost of Rs.25,000/- (Rupees Twenty-five thousand) payable by the Officer who has presented the present writ petition, within a period of one month from the date of this order.

IN W.P. No.2346 of 2011:

23. This writ petition is also preferred by the CPIO challenging the order passed by the Second Appellate Authority on 10.12.2010 directing the petitioner to furnish



the information sought for and in addition, challenging the penalty of Rs.25,000/- imposed on the Officer who has presented this writ petition.

24. The facts of the case are not in dispute. Between the period of 13.08.2008 and 29.08.2008, nine applications were filed seeking for information. Since the information were not provided, the petition was presented before the CPIO on 14.10.2008. Since, the information was not furnished, a first appeal was preferred on 18.09.2009 and this appeal was transmitted to the Authority at Delhi which ultimately re-transmitted the matter once again to the CPIO. The CPIO by order dated 26.11.2009 contended that he was awaiting the advice from Central Information Commission regarding furnishing of the information.

25. Subsequently, on 26.11.2009, he informed the applicant that the information sought for was available and the applicant was required to pay a sum of Rs.18,240/- towards the expenditure incurred in that regard. About



five days thereafter, he sent a revised estimate stating that a total amount of Rs.50,160/- was to be paid.

26. The applicant thereafter moved the Second Appellate Authority and the Second Appellate Authority after noticing the fact that the CPIO has taken a stand that the petitioners should not be furnished with the information has directed the CPIO to furnish the information within two weeks. It is also held that the payment of fees as demanded by the CPIO would stand waived in view of the fact that there was an inordinate delay in furnishing the application.

27. The CPIO has filed this writ petition, as stated above, not only challenging the direction to furnish the information but also the penalty imposed on him.

28. It is true that the CPIO, no doubt, was entitled to challenge the penalty imposed on him. However, in this writ petition, he has challenged the entire order that has



been passed by the Second Appellate Authority including the portion which directed him to furnish the information.

29. As already held in the companion writ petition, the CPIO has no role in the matter of providing the information apart from facilitating the request and he cannot challenge the order by which he is directed to furnish the information.

30. In this view of the matter, the challenge insofar as directing him to furnish the information cannot be sustained and the same is accordingly ***dismissed***.

31. As far as the challenge to the penalty is concerned, it is noticed that the application seeking for information was filed in the month of August-2008 and the information was not offered to be provided till the month of November-2009. It is therefore clear that the CPIO, who was presented this writ petition, has delayed the furnishing of information for more than a year on the ostensible ground



that he was awaiting advice from the Central Information Commission.

32. Having regard to the limited role the CPIO is conferred with, this stand of the CPIO deserves to be deprecated in the strongest possible terms.

33. The Second Appellate Authority having taken note of the conduct of the CPIO has rightly ordered the payment of penalty of Rs.25,000/-.

34. I see no reason to entertain this writ petition and the same is therefore ***dismissed***.

Sd/-
JUDGE

RK
List No.: 1 Sl No.: 17