



2026:AHC-LKO:43438-DB

A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 4718 of 2026

Amarnath

.....Petitioner(s)

Versus

State Information Commission U.P. Lko. Thru. Chief
Information Commissioner And Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Palak Sahai Gupta
Counsel for Respondent(s)	:	Shikhar Anand

Court No. - 3

HON'BLE SHEKHAR B. SARAF, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

1. This is a writ petition under Article 226 of the Constitution of India, wherein the writ petitioner has sought for the following substantial reliefs:-

"I) Issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 06.09.2023 passed by Respondent No.1 in Complaint Case No. एस- 6/275/सी/2023, whereby a penalty of ₹25,000/- has been imposed upon the petitioner under Section 20 of the Right to Information Act, 2005; and the order dated 22.02.2024 passed by Respondent No.1 in Review Petition No. एस-6/152/पुन./2024 (arising out of the aforesaid complaint case), whereby the review preferred by the petitioner has been rejected ;

II. Issue a writ, order or direction in the nature of Mandamus commanding the Respondent No.1 to reconsider and decide the complaint case afresh, strictly in accordance with law, after affording the petitioner a proper, effective and meaningful opportunity of hearing ;

III. Issue an appropriate writ, order or direction staying the operation, effect and recovery of the impugned penalty

sought by the Respondent No.2 (Information seeker/applicant). It has also been submitted that the requisite information as on date has already been provided on 12.01.2024 to the respondent no. 2.

3. It is the case of the learned counsel for the petitioner that despite the fact that the information has been provided and there existed a reasonable cause for delay, the impugned order dated 06.09.2023 imposing penalty on the petitioner has been passed *ex- parte*, as he was never put to notice nor provided any opportunity to explain, before the penalty of Rs. 25,000/- was imposed on him as provided for under Section 20(1) of the Right to Information Act, 2005 (hereinafter referred as to "the Act, 2005 "). He further submits that even the review application against the said order of imposing penalty, which has been filed seeking to bring on records the factum of information having been already provided and also a reasonable cause existed for delaying the providing of requisite information, the State Information Commission (hereinafter to be referred as "SIC") has been pleased to dismiss the said Application by its order dated 22.2.2024. Thus, a prayer has been made to quash the impugned order dated 06.09.2023 imposing penalty upon the petitioner as well as the order of dismissal of review order dated 22.02.2024.

4. On the other hand, Mr. Shikhar Anand, learned counsel appearing on behalf of State Information Commission has supported the impugned order and has submitted that the same does not require any interference.

5. We have heard the learned counsel for the parties and have perused the material available on record.

6. From a bare reading of the impugned order it is not clear as to

following the principles of natural justice and giving the affected person an opportunity to be heard as has been held by the Hon'ble Apex Court in the well celebrated judgment of ***State of Orissa Vs. Dr. (Miss) Binapani Dei; AIR 1967 SC 1269.***

7. However, at this stage, we go a little deeper and note that Section 20 (1) of the Act, 2005, which has been invoked by the SIC to impose penalty on the petitioner provides for the following: -

"Section 20. Penalties.- (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."

8. A facial reading of the aforesaid provision would show that the penalty is to be imposed when an opinion is formed by the concerned authority that the erring officer, without any reasonable cause;

*(a) refused to receive an application for information
or*

*(b) has not furnished information within the time specified
under sub-section (1) of section 7*

(e) obstructed in any manner in furnishing the information.

9 . This Court finds that the imposition of penalty by the authority concerned (SIC or the CIC as the case may be) has to be based on an opinion formed by the said Authority in accordance with law. Meaning thereby, that the said opinion is not to be understood in the traditional meaning of being an expression of belief or idea or emotions based on a personal opinion or without any basis, but in contradiction ought to be based on some material available from the records of the said case. It is for this very reason and necessarily to be in the nature of collecting materials, so as to enable the concerned authority to form an opinion, that the Second Proviso to Section 20 (1) of the Act, 2005 provides for the erring Public Information Officer an opportunity to prove that he acted reasonably and diligently. According to this Court, the ‘proof’ as envisaged by the legislature ought to be in the nature of material and/or documents only, which would prove the diligence or otherwise, of the erring officer in providing of information under the Act. We find that the formation of opinion is the triggering point for imposition of penalty under the provisions of Section 20(1) of the RTI Act, 2005 and obviously, the said opinion has to be formed on the basis of proof provided (or not provided, if opportunity given) by the erring Public Information Officer and after the same is examined for its responsibility and diligence as envisaged under the RTI Act, 2005.

10. Further, we also find that the matter of forming an opinion on the basis of the material collected in terms of second proviso as explained herein above, does not ends with the said burden of proof by the erring officer but extends to providing of hearing on the said material collected.

in tandem with the observance of principles of natural justice.

11. Unfortunately we find the whole mechanism for imposition of penalty to the petitioner has been given a complete go by in the present case.

12. Admittedly, we do not find any opinion having been formed by the SIC in arriving at a decision to impose a penalty of Rs. 25,000/- on the petitioner as neither any notice and/or show-cause was issued to the petitioner prior to the imposition of such a penalty nor any opportunity was provided to file a reply and/or explain or prove that he was reasonable and diligence. Apparently, there was no material on record to form any such opinion on the part of the concerned Authority, for imposition of penalty. To add insult to injury, even no opportunity of hearing was provided to the petitioner as mandated by the first proviso to Section 20(1) of the RTI Act, 2005.

13. Going further, we find that besides the fact that any citizen has an inalienable fundamental right to be heard before he or she is condemned (the principle of *audi alteram partem*) as guaranteed under Article 21 of our Constitution, this Court also finds that the very imposition of penalty also gives rise to an adverse civil consequence. Thus, even on that count, the petitioner ought to have been provided with an adequate and reasonable opportunity of being heard before the imposition of penalty of Rs. 25,000/- by the impugned order. The Hon'ble Supreme Court in the case of ***Prakash Ratan Sinha Vs State of Bihar and others***; reported in ***(2009) 14 SCC 690***; on an issue dealing with the doctrine of 'Equality and Fair Play' and also the principles of natural justice has in paragraph Nos. 9 and 13 held as under:

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13. A similar view has also been taken by the Hon'ble Supreme Court in the case "*Canara Bank and others Vs. Debasis Das and others* " (2003) 4 SCC 557, wherein the Hon'ble Supreme Court in paragraph No. 19 has held as under:

"19. Concept of natural justice has undergone a great deal of change in recent years. Rules of natural justice are not rules embodied always expressly in a statute or in rules framed thereunder. They may be implied from the nature of the duty to be performed under a statute. What particular rule of natural justice should be implied and what its context should be in a given case must depend to a great extent on the fact and circumstances of that case, the frame-work of the statute under which the enquiry is held. The old distinction between a judicial act and an administrative act has withered away. Even an administrative order which involves civil consequences must be consistent with the rules of natural justice. Expression 'civil consequences' encompasses infraction of not merely property or personal rights but of civil liberties, material deprivations, and non- pecuniary damages. In its wide umbrella comes everything that affects a citizen in his civil life.."

14. Further, the Hon'ble Supreme Court in the case of ***Manohar Vs. State of Maharashtra & others***; reported in (2012) 13 SCC 14; has held that before imposing a penalty under Section 20 of the Act, 2005, the competent authority must give the Public Information Officer a reasonable opportunity of being heard and must examine whether there was any reasonable cause for the delay or non-supply of information. Since it is the case of the petitioner that no notice was ever served nor any opportunity of filing any reply and/or explanation or any hearing was provided to him before imposing the penalty of Rs. 25,000/-, we find that the ratio of the **Manohar Case (Supra)** is squarely applicable to the facts

Application loses its significance. However, for the sake of clarity the same is also accordingly, *quashed* and *set aside*.

16. Accordingly, the writ petition is *allowed in the aforesaid terms*.

17. There shall be no order as to cost(s).

(Abdhesh Kumar Chaudhary,J.) (Shekhar B. Saraf,J.)

July 6, 2026
Anuj Singh