

(2011) 03 KAR CK 0026
In the Karnataka High Court
Case No : Writ Petition No. 6684 of 2011

H. Janappa Deputy Commissioner

APPELLANT

Vs

The Commissioner Right to Information Commissioner and
Sri. C.D. Suresh

RESPONDENT

Date of Decision : 11-03-2011

Acts Referred:

Right to Information Act, 2005 — Section 6 (1)

Citation : (2011) 03 KAR CK 0026

Hon'ble Judges : B.S. Patil, J

Bench : Single Bench

Advocate : Basavaraj V. Sabarad, for the Appellant; M.C. Nagashree, HCGP for R1, for the Respondent

Judgement

B.S. Patil, J.—Petitioner is aggrieved by the imposition of penalty of 25,000/- for not furnishing in time the required information to the second Respondent C.D. Suresh as per the provisions of Right to Information Act (for short "the Act")

2. The second Respondent has requested, by filling an application u/s 6(1) of the Act, for furnishing some information. The said application was forwarded to the Joint Commissioner, BBMP., which intturn was forwarded to the Petitioner. When the required information was not furnished, the second Respondent approached the Karnataka Information Commission. On receipt of the notice from the Commission, the Petitioner deputed one of his assistants to appear before the Commission. The representative of the Petitioner appeared and submitted that the information sought, which ran into 1324 pages, had been supplied to the second Respondent on 15.12.2010. However, the Commission having noticed that the Petitioner was required to submit the information within 30 days from the date of application and that the second Respondent had failed to supply the information even after the expiry of two months from thee date of interim direction issued in that regard a penalty of ? 25,000/- had been imposed on the Petitioner.

3. It is contended that the Petitioner was engaged in census duty and was therefore not able to be personally present before the commission on the date when the impugned order came to be passed. It is also urged that for no fault of the Petitioner, penalty is imposed as the person who was required to furnish the information was the Joint Commissioner and not the Deputy Commissioner, as can be seen from the application filed vide Annexure ?B?

4. In my considered view, as the Petitioner did not have a fair and reasonable opportunity to convince the Commission regarding the action take by him furnishing the information without causing unreasonable delay and as it is contended by the Petitioner that he was not required to furnish the information as per the application submitted without going into the legality or correctness of these contentions, as the Petitioner did not have an opportunity to appear before the Commission and as he was allegedly engaged in census work, an opportunity deserves to be given to the Petitioner. More so, because imposition of penalty I n a sum of ? 25,000/- as is ordered by the impugned order will have a serious consequence on the Petitioner, who is an officer in the cadre of the Deputy Commission. Therefore, the matter requires re-consideration after providing a fair and reasonable opportunity to the satisfaction of the Commission as to under what circumstances the delay has occurred.

5. Hence, the writ petition is partly is partly allowed. The impugned order in so far as it impose penalty on the Petitioner is set aside. The matter is remanded for fresh consideration to the Karnataka Information Commission. The Petitioner shall appear before the Commission on 07.04.2011.