
(2015) 01 UK CK 0038

In the Uttarakhand High Court

Case No : Writ Petition No. 806 (MS) of 2009

Harish Chandra Arya and Others

APPELLANT

Vs

Uttarakhand Information Commission and Others

RESPONDENT

Date of Decision : 08-01-2015

Acts Referred:

Right to Information Act, 2005 — Section 19(8)(b), 20

Citation : (2015) 01 UK CK 0038

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : A.K. Joshi, Addl. Chief Standing Counsel, for the Appellant

Final Decision : Allowed

Judgement

Alok Singh, J.

1. Present petition is filed assailing the order dated 29.04.2009 passed by Chief Information Commissioner in Appeal No. A - 1302/2008 whereby penalty of Rs. 25,000/- was imposed against petitioner No. 1 and petitioner No. 2 was directed to pay compensation of Rs. 50,000/- to the complainant/respondent No. 3, herein. Brief facts of the present case, inter alia are that somewhere in the month of February 2008, 100 kiwi plants were distributed by the Horticulture Department; out of 100 kiwi plants, 60 kiwi plants were given to the complainant/respondent No. 3 and 40 kiwi plants were given to other persons; complainant/respondent No. 3 planted those kiwi plants in his agricultural field; in the month of August, 2008, complainant/respondent No. 3 moved an application seeking information from the Horticulture Department to the effect that out of those 100 kiwi plants, how many plants were male and how many plants were female; vide letter dated 20.08.2008, information was sent by registered post AD to the effect that out of 100 plants, 30 plants were male and 70 plants were female; it was further stated in the information supplied by the PIO that complainant himself is an educated agriculturist and after examining everything, he planted those plants given to him and information sought seems to be mala fide; feeling

dissatisfied, complainant/respondent No. 3 preferred, first appeal and thereafter, preferred second appeal.

2. Penalty of Rs. 25000/- was imposed by the second Appellate Authority i.e. Chief Information Commissioner on the ground that petitioner No. 1 has failed to supply the information sought and compensation of Rs. 50,000/- was imposed against respondent No. 2 on the ground that he has not furnished any explanation to the second Appellate Authority.

3. As per Section 19(8)(b) of the Right to Information Act, compensation can be directed to be paid by the Public Authority to the complainant for loss or other detriment suffered by the complainant. Perusal of the impugned order would reveal that second Appellate Authority has not observed in the order impugned as to how much loss complainant has suffered justifying payment of compensation, therefore, order imposing compensation seems to be totally without jurisdiction. Perusal of the impugned order would further reveal that penalty was imposed against petitioner No. 1. It is nowhere observed by the second Appellate Authority that information sent by petitioner No. 1 by registered post AD on 20.08.2008 was not received by complainant/respondent No. 3 or information supplied was ambiguous or incorrect, therefore, penalty of Rs. 25,000/- invoking Section 20 of the Right to Information Act seems to be totally unjustified. Consequently, writ petition is allowed. Impugned order is set aside. No order as to costs.