

(2013) 10 CHH CK 0012
In the Chhattisgarh High Court
Case No : Writ Petition (C) No. 607 of 2012

Sanjay Singh Thakur	Vs	APPELLANT
State of Chhattisgarh and Others		RESPONDENT

Date of Decision : 07-10-2013

Acts Referred:

Citation : AIR 2014 Chh 65 : (2014) 1 MPHT 67

Hon'ble Judges : Yatindra Singh, C.J; Manindra Mohan Shrivastava, J

Bench : Division Bench

Advocate : Saurabh Dangi and Mr. Sunil Pillai, for the Appellant; Kishore Bhaduri, Additional Advocate General, Smt. Fouzia Mirza, Assistant Solicitor General, for Union of India/Respondent-4 in W.P. (C)-607 of 2012 and Shri Kasif Shakeel, counsel for Respondents-3 and 4 in W.P. (C)-1234 of 2012, for the Respondent

Final Decision : Dismissed

Judgement

1. In these two writ petitions, vires of the following rules framed by the State of Chhattisgarh under the Right to Information Act, 2005 (the Act) is challenged:

? Rule 3 as well as rule 4 of Chhattisgarh Right to Information (Appeal) Rules, 2006 (the 2006-Rules) by which fees has been prescribed for filing appeal;

? Rule 4 of Chhattisgarh Right to Information (Fees & Charge) Rules, 2007 (the 2007-Rules) by which fees has been prescribed for inspecting a document; and

? Rule 3 of Chhattisgarh Right to Information (Submission of Application) Rules, 2009 (the 2009-Rules) by which information sought is limited to one subject.

THE DECISION

We have heard counsel for the parties.

2006-Rules are Valid

2. The counsel for the petitioners submit that:

? The Act provides prescribing of fees for filing of an application but it does not provide prescribing of fees for an appeal;

? The Central Government has also not prescribed any fees for filing the first appeal or the second appeal;

? It is against the intention of the Act to prescribe fees for filing appeal;

? The State Government is not entitled to frame a rule prescribing fees for appeal.

3. Sub-rule (1) of rule 3 {3(1)} and sub-rule (3) of rule 4 {4(3)} of the 2006-Rules provides fees of Rs. 50/- and Rs. 100/- for filing of first and second appeal. The rules further provide that in case information is to be supplied by post then instead of Rs. 50/- and Rs. 100/-, fees of Rs. 75/- and Rs. 125/- will be charged.

4. Section 27 of the Act is titled "Power to make rules by Appropriate Government." Sub-section (1) of section 27 {27(1)} of the Act provides that the appropriate Government may by notification in the official gazette make rules to carry out the provisions of the Act.

5. Sub-section (2) of section 27 {27(2)} of the Act gives power in particular. Clause(f) of section 27(2) of the Act provides that any further matter which is required to be, or may be, prescribed.

6. Section 27 of the Act empowers the State Government to carry out the provisions of the Act by framing the rules.

7. The State Government is entitled to frame rules governing the appeal. This includes prescribing of fees for the service rendered.

8. The Act nowhere bars providing of fees for filing the first or second appeal. The amount of Rs. 50/- or Rs. 100/- is also not unreasonable. The fact that the Act does not specifically provide for prescribing fees in appeal does not mean that there is any bar or fees for filing appeal cannot be prescribed.

9. A rule cannot be invalidated for being against the intention of an Act. It can be invalidated only if it contravenes any provision or is beyond rule making power. The impugned rule neither contravenes any provision of the Act nor is beyond rule making power.

10. In view of above, the provisions of 2006-Rules charging of fees for filing the first appeal or the second appeal are valid.

2007-Rules are Valid

11. The State Government has initially framed Chhattisgarh Right to Information (Regulation of fees and cost) Rules 2005 (2005-Rules). Sub-rule () of rule 4 {4()} of the 2005-Rules provides that there will not be any fees for making inspection of any document for the first hour. However, thereafter for every 15 minutes or part of the same, Rs. 5/- will be charged.

12. Rule 4 of the 2007-Rules provides that for inspecting the record the persons, who do not belong to below poverty line are required to pay Rs. 50/- for the first hour. It is an exception to rule 4 of the 2005-Rules.

13. Rule 4 of the 2005-Rules provides different treatment to the persons, who are not below the poverty line. Such a classification is a reasonable classification and charging Rs. 50/- from a person, who is not below the poverty line, is not unreasonable.

14. In view of above, the provisions of 2007-Rules are also valid.

2009-Rules are Valid

15. Rule 3 of the 2009-Rules is titled "Request relate only to single subject matter". It provides that in an application, a request will be made only on one subject and ordinarily it should not exceed 150 words.

16. Rule 3 of the 2009-Rules does not prohibit seeking of information in more than one subject. It merely envisages filing of separate applications for seeking information in more than one subject.

17. The impugned rule does not bar seeking information in more than 150 words. It merely provides that normally it should be done in less than 150 words. The purpose for providing so, is merely that the information should be sought in concise words. There is no illegality in the same.

18. In view of above, the provisions of the 2009-Rules are also valid.

CONCLUSIONS

19. Our conclusions are as follows:

? Rule 3 as well as rule 4 of Chhattisgarh Right to Information (Appeal) Rules, 2006 are valid;

? Rule 4 of Chhattisgarh Right to Information (Fees & Charge) Rules, 2007 is valid; and

? Rule 3 of Chhattisgarh Right to Information (Submission of Application) Rules, 2009 is valid.

In view of our conclusions, the writ petitions have no merit. They are dismissed.