

(2019) 01 JH CK 0071
In the Jharkhand High Court
Case No : Writ Petition (C) No. 1906 Of 2016

Shyam Kishore Mahto

APPELLANT

Vs

State Information Commission Jharkhand And Ors

RESPONDENT

Date of Decision : 24-01-2019

Acts Referred:

Citation : (2019) 01 JH CK 0071

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Shreshth Gautam, Baleshwar Yadav

Final Decision : Disposed Off

Judgement

1. Heard Mr. Shreshth Gautam, counsel appearing on behalf of the petitioner.
2. Heard Mr. Baleshwar Yadav, counsel appearing on behalf of the State.
3. Nobody appears on behalf of respondent no. 3.
4. Counsel for the petitioner while assailing the impugned order dated 24.02.2016 passed by the State Information Commission Jharkhand, Ranchi, submits that the impugned order has been passed in a matter of the year 2013 indicating that in spite of repeated notices, the officer in-charge of Police Station, Deoghar (Town) did not appear before the said authority in connection with information sought for by the private respondent. He submits that so far as the petitioner is concerned, he joined in the post only on 17.07.2015 and he has made a specific statement at para 8 of the writ petition that neither any previous order was communicated to the petitioner nor he was aware of any such appeal filed before the State Information Commission Jharkhand, Ranchi.
5. Counsel for the petitioner further submits that in the year 2013, some other officer was posted as officer in-charge of Police Station, Deoghar (Town). Accordingly, he submits that the impugned order has been passed against the petitioner for no fault on his part and without service of any notice to the

petitioner.

6. This Court finds that neither anyone is appearing on behalf of respondent no. 3 nor any counter affidavit has been filed on his behalf to dispute any of the statements, made in the writ petition.

7. After hearing counsel for the petitioner as well as the counsel for the State, this Court finds that as per the specific case of the petitioner, he was posted as officer in-charge of Police Station in Deoghar (Town) only on 17.07.2015. He has made a specific statement at para 8 of the writ petition that neither any previous order was communicated to the petitioner nor he was aware of any such appeal filed before the State Information Commission Jharkhand, Ranchi, which was filed as back as in the year 2013.

8. In such circumstances, this Court finds that if any opportunity of hearing was granted to the petitioner, then the aforesaid fact would have been brought to the notice of the learned State Information Commission Jharkhand, Ranchi.

9. After considering the facts and circumstances of this case, this Court finds that the petitioner was required to be heard before passing any adverse order in the aforesaid appeal before the learned State Information Commission Jharkhand, Ranchi, so that the fault, if any, on the part of the concerned person could have been brought to the notice to the learned State Information Commission Jharkhand, Ranchi and also the fact as to whether the information could at all be provided to the petitioner.

10. Accordingly, order dated 24.02.2016 passed by the learned State Information Commission Jharkhand, Ranchi as contained in Memo No. 5458 of 2016 dated 02.03.2016 in Appeal No. 220 of 2013 is hereby set aside and the petitioner is directed to appear before the learned State Information Commission Jharkhand, Ranchi on 14.02.2019 along with his affidavit explaining the entire facts and circumstances of the case and also disclosing the fact as to who were posted as officer in-charge of Police Station Deoghar (Town) during the relevant point of time. The learned State Information Commission, Jharkhand, Ranchi shall pass a fresh order after giving an opportunity of hearing to the petitioner, Respondent No. 3 and/or the persons concerned, in accordance with law within a period of three months from the date of receipt/production of a copy of this order.

11. Accordingly, this writ petition is hereby disposed of.