

(2011) 06 KL CK 0162

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 24827 of 2007 (E)

Sivajadas, Secretary

APPELLANT

Vs

The State Information Commission and Sorriasen M.

RESPONDENT

Date of Decision : 02-06-2011

Acts Referred:

Citation : (2011) 06 KL CK 0162

Hon'ble Judges : S. Siri Jagan, J

Bench : Single Bench

Advocate : P.C. Sasidharan, SC for KPSC, for the Appellant; M. Ajay, SC, for the Respondent

Final Decision : Allowed

Judgement

S. Siri Jagan, J.—The Secretary of the Kerala Public Service Commission is the Petitioner in this writ petition. He is aggrieved by the order of the State Information Commission, whereby the State Information Commission imposed on the Petitioner a fine of Rs. 2500 /- for 10 days" delay in giving a reply to the 2nd Respondent to an application for an information sought for by the 2nd Respondent under the Right to Information Act. According to the Petitioner, there was no culpable delay. He submits that since there was a confusion as to whether the information sought for can be given to the 2nd Respondent at all. Ultimately, it was decided that the information being a third party information could not have been issued to the 2nd Respondent, which was confirmed by the State Information Commission also. Therefore, the State Information Commission ought to have held that the Petitioner was not liable to be penalized for the same, is the contention raised.

2. No counter affidavit has been filed by any party. But counsel for both 1st and 2nd Respondents would vehemently argue in support of the order.

3. I have considered the rival contentions in detail.

4. Admittedly, the 1st Respondent upheld the contention of the Public Service

Commission that the information is not one which can be supplied to the 2nd Respondent. In that context, I find merit in the averment of the Petitioner that there was some confusion regarding the maintainability of the application itself. In the above circumstances, I am of opinion that the State Information Commission should have, instead of dealing with it technically, taken a view that there was no deliberate delay in disposing of the application of the 2nd Respondent.

5. In the above circumstances, Ext. P9 order is quashed. The writ petition is allowed as above.