

(2008) 10 KAR CK 0062
In the Karnataka High Court
Case No : Writ Petition No. 11034 of 2008

Sri H.S. Satish Babu Public Information Officer	APPELLANT
Vs	
Sri K.L. Srinivasan and The State Information Commission	RESPONDENT

Date of Decision : 24-10-2008

Acts Referred:

Right to Information Act, 2005 — Section 18 (1), 20 (1)

Citation : (2008) 10 KAR CK 0062

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : R. Kothwal, for the Appellant; H.T. Narendra Prasad, HCGP, for the Respondent

Judgement

N.K. Patil, J.—The petitioner, assailing the correctness of the order dated 17.6.2008 passed by the Karnataka State information Commissioner, in proceeding No. KIC:257:COM:2008, vide Annexure-B, has presented this writ petition. Further, petitioner has sought to direct the respondent not to deduct the penalty amount of Rs. 25,000/- from the petitioner's salary.

2. The first respondent herein has submitted a complaint against the petitioner before the second respondent u/s 18(1) of the Right to Information Act, 2005 stating that, he has sought for the certified copy of the saguvali chit in respect of Sy. No. 25, Maiigundanahalli, Kengeri granted to Sri. Hanumappa from 1997 to 1999 and copy of sanction order file and inspite of making sincere efforts, petitioner has not considered the request made by first respondent for supply of the certified copies as sought in his representation and therefore, he was constrained to file the said complaint. The said complaint filed by first respondent had come up for consideration before the second respondent on 17th June 2008. The second respondent has disposed of the complaint filed by first respondent, vide Annexure-B. However, it has been specifically observed by the second respondent that, inspite of giving sufficient time of more than five months to the petitioner for providing the required information, he has failed to submit the

required information. Second respondent has specifically referred about the dates and events and also the conduct of the petitioner which has compelled the second respondent to issue show cause notice not once but more than twice referring specifically, as to why penalty should not be levied on him, as provided u/s 20(1) of the Act, and inspite of that, petitioner has not cared for the same or submitted his explanation. Keeping in view of these factors and the conduct of the petitioner, the second respondent has imposed penalty of Rs. 25,000/- exercising his power u/s 20(1) of the Right to Information Act, 2005 and directed the petitioner to pay the said amount either in one lump sum with the Government Treasury under the Head of Account "0070-60-118-0-03" penalties under the Act" or by deduction from his salary beginning from the salary for the month of July 2008 payable in August 2008 at the rate of Rs. 5,000/- for next five months and credit the deducted amount to the above Government Head of account. Being aggrieved by this portion of the directions issued by foe second respondent in his order vide Annexure-B, petitioner herein felt necessitated to present this writ petition.

3. I have heard learned Counsel appearing for petitioner and learned Government Pleader appearing for second respondent.

4. After careful perusal of the relevant material available on file, including the impugned order passed by the second respondent, I do not find any error of law, much less mis carriage of justice, as such, committed by the second respondent in passing the impugned order, imposing penalty of Rs. 25,000/- on petitioner, taking into consideration the nature of the post held by him, including his conduct, it is specifically referred that, the Commissioner has also issued the show cause notice to the petitioner not once but twice, as to why penalty as envisaged u/s 20(1) of the Act, should not be levied upon him, but he has failed to submit his explanation and there has been a delay of more than five months in providing the required information and therefore, opined that, maximum penalty is leviable in the case as provided u/s 20(1) of the Right to Information Act. A reference has been made in the order regarding the conduct of the petitioner, he being the Tahsildar-cum-Execute Magistrate of the Taluk, he is duty bound to submit the required information and inspite of giving sufficient opportunity, he has not mend his attitude nor made any sincere efforts to appear personally and explain the difficulties and there is no intentional or deliberate delay on his part for furnishing the required information. But consistently, petitioner has failed to assist and comply the directions issued by the Commissioner and he has compelled the Commissioner to invoke Section 20(1) of the Right to Information Act, and therefore, there is no other option for the Commissioner to take such a stringent action which is mandatory in nature, u/s 20(1) of the Act, and accordingly, he has passed the order vide Annexure-B imposing penalty on the petitioner with directions. I do not find any error of law or illegality, as such, committed by the second respondent in imposing penalty of Rs. 25,000/- on the petitioner for dereliction of duty and not providing necessary required information.

5. Hence, interference by this Court is not justifiable. Nor I find any good grounds, as such, made out by petitioner to entertain the prayers sought for by him. However, in the interest of justice, the petitioner has filed his personal affidavit dated 16th October 2008 on 17th October 2008, specifically stating in para-4 that " I am herewith-tendering sincere/unconditional apology for not appearing before the respondent No. 2 even though the non-appearance was not deliberate or intentional one, it is due to above bona fide/genuine reasons". The said unconditional apology tendered by the petitioner in para-4 of the affidavit dated 16th October 2008 is placed on record. Keeping in view the unconditional apology tendered by petitioner as referred above and having regard to the facts and circumstances of the case and after accepting the unconditional apology tendered by the petitioner, it is hereby clarified that, the penalty imposed by second respondent in the impugned order on the petitioner will not be a stigma for his future services and it will not come in the way for considering the petitioner's case for promotion or any other benefits for which he is entitled under the relevant Rules. The concerned authorities have to consider the case of the petitioner and take appropriate decision on merits of the case, without being influenced by the directions issued by the second respondent as referred above and confirmed by this Court.

6. With these observations, the writ petition filed by petitioner stands disposed of.