

(2018) 01 KAR CK 0072
In the Karnataka High Court
Case No : 18255 of 2016

SRI LINGAPPA K

APPELLANT

Vs

KARNATAKA STATE INFORMATION COMMISSION

RESPONDENT

Date of Decision : 02-01-2018

Acts Referred:

Citation : (2018) 01 KAR CK 0072

Hon'ble Judges : A.S.Bopanna

Bench : Single Bench

Advocate : UMAPATHI S, RAJASHEKHAR K

Judgement

1. The petitioner is before this Court assailing the order dated 28.10.2015 impugned at Annexure "K" to the petition.

2. The petitioner at an earlier point was discharging his functions as the Assistant Conservator of Forest at Ramanagara Taluk, Bangalore Rural.

Presently, the petitioner is working at Hassan Division. The issue in the present case relates to the application which had been made by respondent

No.2 under the Right to Information Act seeking certain information. The respondent No.2 has thereafter filed an appeal as provided under the

Act and since according to him the information had not been furnished, a complaint was filed before the respondent No.1. Through the order

impugned at Annexure "K" to the petition, the respondent No.1 has arrived at the conclusion that the petitioner who was working as the Public

Information Officer has committed default and in that view has imposed the penalty of Rs.10,000/- on the petitioner. The petitioner therefore,

claiming to be aggrieved is before this Court in this petition.

3. Heard the learned counsel for the parties and perused the petition papers.

4. Firstly it is contended on behalf of the petitioner that the petitioner who was working as the Assistant Conservator of Forest at that point in time was not the Public Information Officer (for short "the PIO") and as such the proceedings against the petitioner is not justified. Secondly, is contended that the application filed by the respondent No.2 seeking for information is through the Office of the Deputy Conservator of Forest who was the PIO and as such the petitioner had no knowledge of such application being filed nor was there any obligation in law on the petitioner to furnish information to respondent No.2 when he was not the designated PIO. It is further pointed out that though the application was not in order and the appeal filed thereafter was also not to the Appellate Authority as per the designation, respondent No.1 has considered the complaint without ascertaining these aspects of the matter. Further, it is pointed out that though a notice is issued indicating the date of hearing as 19.06.2015 the same had been unilaterally postponed by the respondent No.1 through the notice dated 15.06.2015 which was only internal but not issued to the parties concerned. In that view, it is contended that the petitioner had no knowledge of the proceedings even otherwise and therefore, the order is not justified.

5. In the background of the contention put forth a perusal of the document at Annexure "L" at the outset would indicate that insofar as the Office of the Deputy Conservator of Forests, Ramanagar Division, Ramanagar, the PIO designated is the Deputy Conservator of Forests, Ramanagar Division and the Appellate Authority is the CCF, Bangalore Circle, Bangalore. Though the learned counsel for respondent No.1 would refer to the next entry therein with reference to the office of the ACF, Ramanagar Sub-Division to indicate that the PIO therein is the ACF and the Appellate Authority is the DCF, Ramanagar Division, a perusal of the application filed by the 2nd respondent seeking for information would indicate that it was made to the Office of the DCF and if that be the position, the PIO would be the DCF. On this aspect of the matter, the respondent No.1 was required to make a detailed consideration, to arrive at a conclusion as to whether the application made was to the appropriate PIO and in that light was to take note whether the appeal filed was to the competent authority. It is in that background respondent No.1 was required to arrive at a

conclusion as to whether any default has been committed by the petitioner himself as the PIO and further consideration was required to be made.

6. That apart as noticed from the petition papers, the notice for hearing would indicate the date of hearing as 19.06.2015. But the same had been

adjourned through the notice on 15.06.2015. Though such adjournment was made, no specific date of hearing was indicated therein and as such

without the parties being specifically informed, the party concerned could not have appeared before respondent No.1. Therefore, in that

circumstance when the above noticed discrepancies are evident, the ultimate order passed by the respondent No.1 imposing the penalty on the

petitioner would not be justified. However, respondent No.1 based on the complaint filed by respondent No.2 shall at the outset ascertain the

appropriate PIO to whom notice is required to be issued and thereafter on consideration relating to the application being made by respondent

No.2 and as to whether the information has been furnished or not is required to taken note and fresh order is necessary to be passed. In that view,

the order impugned dated 28.10.2015 at Annexure "K" to the petition is quashed. Liberty is reserved to the respondent No.2 to make a fresh

application before the respondent No.1. If such application is made by respondent No.2, the respondent No.1 shall ascertain the above noticed

facts and thereafter arrive at a conclusion in accordance with law. Petition is accordingly disposed of.