

Court No. - 3

Case :- WRIT - C No. - 5888 of 2008

Petitioner :- Public Information Officer

Respondent :- Raj Kumar And Anr.

Counsel for Petitioner :- Standing Counsel

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Manish Kumar,J.

Heard learned Standing Counsel, who appears on behalf of the petitioner and Sri Shikhar Anand, learned counsel for the opposite party no. 2.

Learned Standing Counsel has pointed out the earlier order passed by this Court at the time of the matter being taken up as fresh.

This Court had issued notice to the respondent and stayed the impugned order dated 05.09.2007 passed by the opposite party no. 2 by observing that prima facie the Court was satisfied that the Chief Information Commission did not have the power to issue a mandatory direction for payment as has been done in the instant case.

It has been argued by learned Standing Counsel that the opposite party no. 1 made an application on 22.02.2007 to the opposite party no. 2 to take stern action against one Special Secretary to the Hon'ble Chief Minister and that he may be directed to reimburse a sum of Rs. 1,30,000/- as financial assistance to them. A copy of the said application was sent to the Office of the Principal Secretary, attached to the Office of the Chief Minister by the opposite party no. 2 with a direction that some financial assistance be provided to the opposite party no. 1 for spending some money towards treatment of his father. Necessary information was sent to the opposite party no. 1 by the Office of the petitioner on 09.04.2007 in which it was stated that the petitioner's earlier application for compensation had been sent to the District Magistrate, Hathras for verification and although the respondent had indicated spending Rs. 1,50,000/- on the treatment of his father. The District Magistrate concerned by his report dated 24.12.2005, only vouchers worth Rs. 21,367/- were submitted by opposite party no. 1 for verification and such bill vouchers related to some payment being made to some private hospital. The said reimbursement which the opposite parties were praying for could not be granted under the Rules and also it was completely time barred.

The petitioner received a notice dated 26.06.2007 requiring his presence before the Commissioner on 26.07.2007. The petitioner sent necessary information to the opposite party no. 2 on 24.07.2007 indicating the correct facts and circumstances and that the necessary information had been given to the opposite party no. 1 on 09.04.2007 itself but when the representative of the opposite party appeared before the Chief Information

Commissioner, he was directed to obtain information from the Office of the District Magistrate, Hathras. Such information was also obtained and submitted on 05.09.2007.

The informations were provided through letter dated 09.04.2007 to the opposite party no. 1, the matter ought to have been consigned to the records by the Chief Information Commissioner. However, a direction was issued by him vide order dated 05.09.2007 that payment of Rs. 21,000/- against alleged vouchers produced by the opposite party no. 1 be made.

The Chief Information Commissioner was apprised of the later developments by the representative of the petitioner but instead of consigning the matter to the record, the Chief Information Commissioner passed the impugned order dated 05.09.2007 by issuing a mandatory direction that the amount of Rs. 21,000/- be paid to the petitioner against the vouchers presented by him.

It has been argued by learned counsel for the petitioner that the impugned order dated 05.09.2007 was passed without jurisdiction as under the Act and the Rules framed thereunder, the State Information Commissioner can only receive and inquire into complaints and hear appeals against order passed by the State Public Information Officers or impose penalties in certain cases. No such power is conferred on the opposite party no. 2 to pass an order as has been done in this case of making payment to the opposite party/complainant.

This Court has perused the order impugned and finds that no reason has been assigned at all for passing such order by the opposite party no. 2. The opposite party no. 2 has only noted that the Under Secretary of the Office of the Hon'ble Chief Minister was present in person and that he had vouchers of Rs. 21,000/- that the opposite party no. 1 has alleged to have spent on the treatment of his father. A direction was issued that the said amount should be reimbursed forthwith and the matter was disposed of. Such an order having been passed completely without jurisdiction and ignorance of the Act and the Rules is set aside.

In the result, the writ petition is allowed.

Order Date :- 21.2.2023
Nitesh