

रजिस्ट्रार

H.C.

कार्यालय उ०प्र० सूचना आयोग, RTI भवन, विभूति खण्ड, लखनऊ

पत्रांक: 1.6 / उ०प्र०सू०आ० / रजिस्ट्रार / 10(1) / 2021

दिनांक: 22 :जनवरी:2021

मा० राज्य सूचना आयुक्तगण,

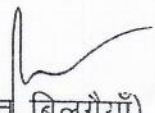
कृपया मा० उच्च न्यायालय, लखनऊ पीठ के द्वारा रिट याचिका संख्या एम०बी० 42/2021 एवं एम०बी० 45/2021 नीरज कुमार श्रीवास्तव व अन्य बनाम राज्य सूचना आयोग व अन्य में पारित आदेश दिनांक 06-1-2021 (छाया प्रति संलग्न) का सन्दर्भ ग्रहण करना चाहें।

अवगत, कराना है कि उपरोक्त रिट याचिकायें आयोग के आदेश दिनांक 31-12-2019 के द्वारा निस्तारित द्वितीय अपील संख्या एस-10/557/ए/2018 से सम्बन्धित हैं, जिसमें सूचना का अधिकार अधिनियम, 2005 की धारा 20 के अन्तर्गत जन सूचना अधिकारी पर अर्थदण्ड अधिरोपित करने के साथ-साथ अनुशासनात्मक कार्यवाही करने की संस्तुति भी की गयी है।

उल्लेखनीय है कि मा० उच्च न्यायालय के द्वारा उपरोक्त प्रकरण में मा० सर्वोच्च न्यायालय की विधि व्यवस्था Manohar s/o Manikrao Anchule Vs. State of Maharashtra and Anr. {(2012) 13 SCC 14} का उल्लेख करते हुए कहा गया है कि सूचना का अधिकार अधिनियम की धारा 20(2) के अन्तर्गत आदेश पारित करते समय राज्य सूचना आयोग के द्वारा एक तिथि नियत कर जन सूचना अधिकारी को उक्त बिन्दु पर सुनवाई का अवसर प्रदान किया जाना चाहिए।

मा० उच्च न्यायालय के द्वारा उपरोक्त प्रकरणों में जो मत व्यक्त किया गया है, उसके अनुसार यह उचित होगा कि सूचना का अधिकार अधिनियम, 2005 की धारा 20(1) एवं 20(2) के अन्तर्गत आदेश एक ही तिथि पर पारित न किया जाय एवं यदि जन सूचना अधिकारी पर अधिनियम की धारा 20(1) के अन्तर्गत दण्ड अधिरोपित करने के उपरोक्त अधिनियम की धारा-20(2) के अन्तर्गत कार्यवाही किया जाना भी अपेक्षित है, तब प्रकरण में एक तिथि नियत कर जन सूचना अधिकारी को सुनवाई का युक्तियुक्त अवसर प्रदान करते हुए आदेश पारित किया जाये।

मा० उच्च न्यायालय के द्वारा उपरोक्त रिट याचिकाओं में पारित आदेश की छाया प्रति आपके अवलोकनार्थ प्रेषित है, जो भविष्य में उ०प्र० सूचना आयोग पर आबद्धकारी होगा।


(प्रशान्त बिलगैयाँ)
रजिस्ट्रार

Court No. - 3

Case :- MISC. BENCH No. - 45 of 2021

Petitioner :- Neeraj Kumar Srivastava & Anr.

Respondent :- State Information Commission Thru.
Registrar, Lucknow & Ors.

Counsel for Petitioner :- Amrendra Nath
Tripathi, Shailendra Kumar Tiwari

Counsel for Respondent :- C.S.C., Shikhar Anand

Hon'ble Alok Singh, J.

Hon'ble Karunesh Singh Pawar, J.

Heard Sri Amrendra Nath Tripathi, learned counsel for the petitioners, Sri Shikhar Anand, learned counsel for opposite party no. 1 and learned standing counsel for opposite party no. 3.

Issue notice to opposite party no. 2.

The contention of learned counsel for the petitioner is that the State Information Commission, while passing the order annexed as Annexure 1 to this writ petition under Section 20 sub-Section 2 of the Right to Information Act, 2005 should have provided opportunity of hearing to the petitioner, as directed by Hon'ble the Supreme Court in the case of *Manohar s/o Manikrao Anchule vs. State of Maharashtra and Anr. [(2012) 13 SCC 14]*. Learned counsel for the petitioner has laid emphasis on para 22 to 27 of the said judgment.

Hon'ble the Supreme Court in para 27 of the aforesaid case has held that while passing an order under Section 20 sub-Section 2 of the Act, the State Information Commission should have granted an adjournment and heard the appellant. In this case, the impugned order under Section 20 sub-Section 1 as well as Section 20 sub-Section 2 of the Act has been passed on the same date and the petitioner were not provided opportunity of hearing while passing order under Section 20 sub-Section 2 of the Act. In view of above, prima facie case of interim relief is made out.

The impugned order dated 31.12.2019 passed in Appeal No. S10-557/A/2018 shall remain stayed till further order of the Court, so far it relates to petitioner no. 2.

List and connect this case along with W.P. No. 18254 (MB) of 2020.

In the meantime, parties shall exchange affidavits.

Order Date :- 6.1.2021
Nitesh

Court No. - 3

Case :- MISC. BENCH No. - 42 of 2021

Petitioner :- Neeraj Kumar Srivastava & Anr.

Respondent :- State Information Commission Thru.
Registrar, Lucknow & Ors.

Counsel for Petitioner :- Amrendra Nath Tripathi, Ajay
Yadav

Counsel for Respondent :- C.S.C., Shikhar Anand

Hon'ble Alok Singh, J.

Hon'ble Karunesh Singh Pawar, J.

Heard Sri Amrendra Nath Tripathi, learned counsel for the petitioners, Sri Shikhar Anand, learned counsel for opposite party no. 1 and learned standing counsel for opposite party no. 3.

Issue notice to opposite party no. 2.

The contention of learned counsel for the petitioner is that the State Information Commission, while passing the order annexed as Annexure 1 to this writ petition under Section 20 sub-Section 2 of the Right to Information Act, 2005 should have provided opportunity of hearing to the petitioner, as directed by Hon'ble the Supreme Court in the case of *Manohar s/o Manikrao Anchule vs. State of Maharashtra and Anr. [(2012) 13 SCC 14]*. Learned counsel for the petitioner has laid emphasis on para 22 to 27 of the said judgment.

Hon'ble the Supreme Court in para 27 of the aforesaid case has held that while passing an order under Section 20 sub-Section 2 of the Act, the State Information Commission should have granted an adjournment and heard the appellant. In this case, the impugned order under Section 20 sub-Section 1 as well as Section 20 sub-Section 2 of the Act has been passed on the same date and the petitioner were not provided opportunity of hearing while passing order under Section 20 sub-Section 2 of the Act. In view of above, prima facie case of interim relief is made out.

The impugned order dated 31.12.2019 passed in Appeal No. S10-557/A/2018 shall remain stayed till further order of the Court, so far it relates to petitioner no. 2.

List and connect this case along with W.P. No. 18254 (MB) of 2020.

In the meantime, parties shall exchange affidavits.

Order Date :- 6.1.2021