

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 01st DAY OF JULY, 2022

BEFORE

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT PETITION No.8288/2013 (GM-RES)

BETWEEN:

SRI AMBADI MADHAV,

...PETITIONER

(BY SRI SRIKANTH, ADVOCATE)

AND

1. THE KARNATAKA INFORMATION COMMISSION
BY ITS STATE INFORMATION COMMISSIONER,
ARVIND BHAVAN,
MYTHIC SOCIETY BUILDING,
NRUPATUNGA ROAD,
BANGALORE-560001.

2. SRI A.R. SHASHIKUMAR
SOCIAL ENVIRONMENT AND WILDLIFE
PROTECTION ACTIVITIST
SWAMY VIVEKANANDA PUBLIC
INTEREST FOUNDATION,
62, 6TH S.R. NAGAR,
BANGALORE-560027.

...RESPONDENTS

(BY SRI SHARATH GOWDA, G.B. ADVOCATION FOR R1
SRI A.R.SHASHIKUMAR PARTY-IN-PERSON FOR R2 (NOC VK
FILED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 03.09.2012 PASSED BY RESPONDENT NO.1 IN KaMaaAA 6070 Dooru 2011 at ANNEXURE-M

THIS W.P. COMING ON FOR FINAL HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The present writ petition is filed challenging the order dated 03.09.2012 passed by the Karnataka Information Commission in Case No.KaMaaAA 6070 Dooru 2011.

2. Brief facts of the case are as follows:

Respondent No.3 filed RTI Application dated 19.1.2011 and sought for information regarding representations of villagers of Alur, Sakleshpura Taluk, facing Elephants entering into their fields and action taken report, Post Mortem Report of death of two baby Elephants, reasons for death, date and time of death, details of cases registered and steps taken to protect the Elephants, by paying an initial fee of Rs.10/-. The Petitioner who was discharging his duties as Deputy Conservator of Forest at Hassan as Public Information

Officer (PIO) received the said application on 22.1.2011 and in turn, informed his subordinates by making necessary endorsement on 31.01.2011 to furnish the copies to the Respondent No.2 as requested by him on an emergent measure. That the gathered information along with enclosures were furnished by the Petitioner to Respondent No.2 on 04.02.2011. Subsequently, the Respondent No.2 was requested to bear the sufficient copying charges and was intimated of the amount to be paid. However, despite the amount not being paid by the Respondent No.2, the entire information was furnished to him by the Petitioner's office on 05.01.2012.

3. Respondent No.2 who had made the application under RTI Act for the information, filed an appeal before the Conservator of Forest, Hassan Circle on 17.2.2011 contending that the information sought for has not been furnished. On 27.5.2011, Respondent No.2 filed a second appeal before Respondent No.1 having regard to the delay in furnishing the information.

4. Respondent No.1 after considering the matter had passed the impugned order dated 3.9.2012 and imposed fine of Rs.10,000/- on the Petitioner for the delay in furnishing the information.

5. Sri Srikanth, learned counsel appearing on behalf of Sri.A. Ravishankar for the Petitioner made the following submissions:

(i) voluminous documentary material was sought to be furnished by the Respondent No.2. The requested information was furnished on 04.02.2011 itself. The Respondent No.2 was also addressed a communication for furnishing the deficit copy charges. Despite the deficit copy charges not having been paid by the Respondent No.2, the further information as sought for was also provided on 05.1.2012.

ii) During the relevant time, when the information was sought, the Petitioner was under deputation from 31.1.2011 to 4.3.2011 and once again from 16.5.2011 to 3.6.2011 and official memorandum dated

11.1.2011 (Annexure-O) to the writ petition has been produced in support of the same.

iii) The delay, if any, was due to *bona fide* reasons and no intentional delay was caused by the Petitioner.

(iv) Section 21 of the RTI protects the action taken in good faith.

Putting forth the aforementioned contentions, the Petitioner prays for quashing the impugned order.

6. Learned counsel for Respondent No.1 justified the order passed by the Commission.

7. The question before this Court is '*Whether the order dated 03.09.2012 is liable to be interfered with?*'

8. Having perused the material on record and after consideration of the submission made by the parties, it is not disputed that the information sought for by the Petitioner has been furnished. Even if there has been some delay in furnishing the information, it is clear from a perusal of the material available on record that the reasons

have been afforded by the Petitioner for delay and the said reasons are genuine and *bona fide*. It is also forthcoming that the delay is not deliberate in the hands of the petitioner and there is no *mala fide* intent by the Petitioner to withhold the information sought for by the Respondent No.2. Under the circumstances, the order dated 03.09.2012 passed by the Respondent No.1 imposing a fine of Rs.10,000/- is liable to be quashed.

9. Having regard to the aforementioned, I pass the following:

ORDER

- i) Writ petition is allowed.
- ii) The Order dated 03.09.2012 passed in Case No.KaMaaAA 6070 Dooru 2011 by the respondent No.1 is hereby quashed.

No costs.

**Sd/-
JUDGE**

BS