
(2021) 01 KL CK 0554

High Court Of Kerala

Case No: Writ Petition (C) No. 27950 Of 2020

Shibu Jacob

APPELLANT

Vs

State Public Information
Officer And Village
Officer And Ors

RESPONDENT

Date of Decision: Jan. 25, 2021

Acts Referred:

- Right To Information Act, 2005 - Section 71

Hon'ble Judges: Sunil Thomas, J

Bench: Single Bench

Advocate: P.M. Joshi, Siji K. Paul, M. Ajay, Bimal K Nath

Final Decision: Disposed Of

Judgement

1. The petitioner herein applied for an attested copy of FMB under Section 71 of the Right to Information Act. The first respondent demanded a fee

of Rs.1,518/-(Rupees One thousand five hundred eighteen only) for the photocopy of the FMB.

2. According to the petitioner herein, the fees charged by the first respondent was exorbitant and against the provisions of the Right to Information

Act, and the Kerala Right to Information (Regulation of Fee and Cost) Rules, 2006. In the light of the urgent requirement of the FMB, he remitted the

fees on 09.08.2016 and preferred an appeal before the second respondent, challenging the exorbitant fees charged by the first respondent. The appeal

was dismissed. He filed a second appeal before the third respondent which was dismissed by Ext.P5 order, without affording an opportunity of being

heard to the petitioner.

3. The reason given by the State Information Commission as is discernible from para 2 of Ext.P5 is that, the petitioner was well-versed in the provision

of the Right to Information Act, that he has remitted the fee fully knowing that it was excess and thereafter, approached the authorities challenging the

order. It was held that he should not have remitted the fee and should have approached the Commission, challenging it.

4. Heard the learned Counsel for the petitioner and the learned Standing Counsel for the State Information Commission.

5. I cannot justify the stand taken by the State Information Commission, in so far as, it took the view that the petitioner has waived his right to

challenge the order by remitting the fee. Evidently, the stand taken by the petitioner indicates that he was not satisfied with the fee collected. Merely

because fee has been remitted, that does not take away his right to challenge the proceedings, unless the petitioner, specifically or by necessary

implication has waived his right.

6. The learned Counsel for the petitioner pointed out that, in an identical case he did not remit the fee and challenged the matter. The matter is still

pending as Writ Petition No.33768 of 2016. No orders have been passed.

7. Having considered the entire facts, I feel that by mere remittance of the fee, by itself will not take away the legal right of the petitioner to challenge

the impugned order if he is really aggrieved.

8. Having considered this, I am inclined to remand the matter to the third respondent - State Information Commission for a fresh consideration of the

above appeal. The impugned order is set aside and the matter is remanded to the State Information Commission for passing appropriate orders on

appeal, after giving an opportunity of being heard to the petitioner herein. The orders shall be passed by the State Information Commission within a

period of one month from the date of receipt of a copy of this judgment.

Accordingly, the writ petition is disposed of.