

invoking of Section 20(3) also cannot be justified which in any case cannot even be invoked for cancellation and is confined only to suspension. Thus on overall conspectus of the material, it is clear that there is no material whatsoever existed to form a view that the petitioners were indulging in any acts, which are prohibited under Chapter II or can be termed as offences under Sections 22 and 23, thus on that count, the writ petition deserves to be allowed

15. The order of suspension dated 12.05.2023 and the cancellation of registration dated 13.10.2023 falling short of the requirement under the PCPNDT Act cannot be sustained and are quashed. The appellate order dated 26.03.2025 is also quashed. The writ petition stands *allowed*.

(2025) 5 ILRA 1473
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: LUCKNOW 09.05.2025

BEFORE

THE HON'BLE ATTAU RAHMAN MASOODI, J.
THE HON'BLE AJAI KUMAR SRIVASTAVA-I, J.

Writ C No. 4465 of 2025

RajjanPetitioner
Versus
State Information Commission U.P. Lko & Anr. ...Respondents

Counsel for the Petitioner:
 Manoj Sahu

Counsel for the Respondents:
 Shikhar Anand,C.S.C.

**A. Civil Law-Constitution of India,1950-
 Article 226-Right to Information
 Act,2005-Section 19(8)-The petitioner
 filed an RTI application seeking**

information from the Gram Panchayat, Jabrauli-Despite filing the application, a first appeal, and a second appeal, the requested information was never provided-The State Information Commission imposed a penalty of Rs. 25000/- on the Public Information Officer and recommended departmental action but failed to ensure that the information was actually furnished to the petitioner-The court observed that the core objective of the Act,2005 is to provide information to the citizen-It held that the State Information Commission has wide powers under section 19(8) of the Act, including the authority to direct the PIO to furnish the requested information-The court criticized the Commission for passing the order in a mechanical manner and failing to fulfill its statutory duties-Accordingly, the Court set aside the impugned order and remanded the matter back to the Commission with directions to take concrete steps to obtain and provide the requested information to the petitioner. (Para 1 to 20)

The writ petition is allowed. (E-6)

List of Cases cited:

1. C.I.C. & anr. Vs St. of Manipur & anr. (2011) 15 SCC 1
2. Kishan Chand Jain Vs U.O.I. & ors. (2023) SCC OnLine SC 1021

(Delivered by Hon'ble Attau Rahman Masoodi, J.

&

Hon'ble Ajai Kumar Srivastava-I, J.)

1. Heard learned counsel for the petitioner, Sri Shikhar Anand, learned counsel for State Information Commission i.e. respondent No.1 and learned Standing Counsel for the State.

2. The writ petition has come to be filed before this Court under Article 226 of

the Constitution of India on the ground that the mechanism under the Right to Information Act, 2005 in its entirety has failed to furnish the petitioner with the information as was prayed for initially before the Information Officer, who failed to provide the same. The appeal arising therefrom was also not decided within the statutory period of time, as a result of which the second appeal came to be filed before the State Information Commissioner registered as Appeal No.S 5/ A/ 0460 of 2024, which has finally culminated in a penalty order and consigned to record.

3. On a plain reading of the appellate order passed by the State Information Commissioner on 24.02.2025, it is gathered that the Information Officer, who was issued notice and summoned for providing the information prayed for by the petitioner, did not cooperate with the proceedings. He repeatedly failed to appear on the dates which were fixed for appearance. Due to the default on the part of the Information Officer in cooperating with the appellate proceedings, the penalty clause appears to have been invoked, and the appellate proceeding seems to have been decided with the imposition of a sum of Rs. 25,000/- (Rupees twenty five thousand), besides recommending a disciplinary action against the erring officer, i.e., the Information Officer.

4. On a perusal of the appeal instituted by the petitioner before the State Information Commissioner under Section 19(3) of the Act, 2005, it is clear that the following relief was sought:-

सूचना का अधिकार अधिनियम, 2005 की धारा 19(3)- द्वितीय अपील के अधीन माँगा गया अनुतोष	सूचना उपलब्ध कराई जाय
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5. Essentially, the relief sought by the petitioner was for being provided the information prayed for.

6. Learned counsel for the State Information Commissioner has submitted that there is no mechanism for the appellate authority to procure the information asked for so as to be furnished to the aggrieved party. The penalty provisions alone are available to punish an erring officer. In the present case, the same procedure having been followed has resulted in the disposal of the appeal and the imposition of a penalty of Rs. 25,000/- (Rupees twenty five thousand), coupled with the recommendation of disciplinary action against the erring officer has been ordered by the State Information Commissioner on 24.02.2025.

7. Learned counsel for the petitioner, on the other hand, has argued that the purpose of the Act, 2005 is essentially to provide the information sought by the applicant. The very mechanism of proceedings under the Act, 2005 is intended for providing the information sought by a person, and in the event of being aggrieved, the mechanisms of first appeal and second appeal have been provided under the statute.

8. The argument put forth by learned counsel for the petitioner appears to have force.

9. Sections 18 and 19 of the Act, 2005 operate in different arena as has been held by Hon'ble the Supreme Court in **Chief Information Commissioner and another vs. State of Manipur and another**2.

10. On a close scrutiny of the provisions of the Act, 2005, particularly

Section 7 read with Section 19, sub-Section (5), (6), (8), (9) and (10), we are of the considered opinion that the State Information Commissioner enjoys wide powers regarding the discovery of information from the offices/ officers/ courts for the purpose of being supplied to an applicant desirous of seeking information.

11. The relevant provisions of Section 19 of the Act, 2005, which pertains to appeal, are as under:-

“19. Appeal.—(1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of Section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under Section 11 to disclose third-party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

(3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:

Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.

(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.

(6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

(7) The decision of the Central Information Commission or State

Information Commission, as the case may be, shall be binding.

(8) In its decision, Central Information Commission or State Information Commission, as the case may be, has the power to—

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—

(i) by providing access to information, if so requested, in a particular form;

(ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;

(iii) by publishing certain information or categories of information;

(iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;

(v) by enhancing the provision of training on the right to information for its officials;

(vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of Section 4;

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

(c) impose any of the penalties provided under this Act;

(d) reject the application.

(9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.”

(emphasis supplied)

12. In this regard, we also find it apposite to refer to a judgment rendered by Hon’ble the Supreme Court in *Kishan Chand Jain vs. Union of India and others*³, wherein Hon’ble the Supreme Court in paragraph No.25 has held as under :-

“25. Having examined the Right to Information established by the statute under Section 3 in the context of *the obligations of public authorities* under Section 4, we are of the opinion that the purpose and object of the statute will be accomplished only if the principle of accountability governs the relationship between ‘right holders’ and ‘duty bearers’. The Central and State Information Commissions have a prominent place, having a statutory recognition under Chapters III and IV of the Act and their powers and functions all enumerated in detail in Section 18 of the Act. We have also noted the special power of ‘Monitoring and Reporting’ conferred on the Central and State Information Commissioners which must be exercised keeping in mind the purpose and object of the Act, i.e., ‘to

promote transparency and accountability in working of every public authority’.”

(emphasis supplied)

13. A perusal of the aforesaid provisions as also the law laid down by Hon’ble the Supreme Court in **Kishan Chand Jain’s case (supra)**, it is amply clear that the State Information Commission has power to requisition any public record or copies thereof from any Court or Office and by providing access to information, if so required, in a particular form.

14. Here, in this case, the petitioner sought an information on eight points by moving a requisite application on 21.03.2024 from the Public Information Officer under Section 6 of the Act, 2005. Owing to in-action of Public Information Officer/respondent No.2, the petitioner preferred an Appeal under Section 19 (1) before the Appellate Authority on 02.05.2024. Even after filing of the First Appeal, the respondent No.2 did not provide the requisite information. Under compelling circumstances, the petitioner filed a Second Appeal online on 21.06.2024 before the respondent No.1/State Information Commission.

15. Though the Commission fixed several dates, neither the requisite information has been brought on record by the concerned Officer nor he appeared before the Commission. It is in these circumstances the Commission while recommending for departmental proceedings against respondent No.2 consigned the matter to records.

16. The contention of the petitioner that since beginning he requested for providing the information and it has not been provided by any officer at any stage. Penalty is serving only the purpose of punishing the respondent No.2 for in-action of his legal duty, but it does not serve the purpose of the petitioner. As per Act, 2005, the Commission has wide powers to give directions to the Public Information Officers for producing the information regarding which the prayer is made.

17. Broadly, it is stated that the Act grants citizens the right to access information held by the public authorities including records, documents and electronic information. The very object of the Act is to harmonize the conflicting interests, that is, ensuring transparency, to bring in accountability and containing corruption on the one hand, and at the same time ensure that the revelation of information, in actual practice, does not harm or adversely affect other public interests which include efficient functioning of the governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information, on the other hand.

18. Since the petitioner has sought information from the Gram Panchayat, Jabrauli, Block & Tehsil Mohanlalganj, Lucknow on certain works done by it, it cannot be said that the requisite information cannot be provided to him under Section 8 of the Act which is exempted from disclosure of information. As stated by the petitioner, it does not merely serve his purpose by punishing respondent No.2. Despite his best efforts, he is unable to get the desired information.

19. A perusal of the order shows that the Commission has passed the impugned order in a cursory manner and the efforts taken by it are not reflected from the impugned order. It shows that merely in a mechanical and mechanical manner, the order has been passed. As per Act, 2005, when the Commission receives an appeal from any informant, it issues notice to the officer concerned and fixes dates and when he fails to respond, penalty is imposed. But it ignores the fact that though the Commission has wide powers to get the information under Section 19 of the Act, 2005 and provide it to the informant, yet it has failed to invoke the appellate powers for serving the real purpose of the Act, 2005. The order of penalty is deterrent but the real object of the Act lies in furnishing the information prayed, for which, no steps were taken by the Appellate Authority.

20. For the reasons stated above, the writ petition is A and the impugned order dated 24.02.2025 is set aside, except the punishment imposed against respondent No.2 and the matter is remitted to the Commission for deciding the appeal afresh. We make it clear that we have not delved into the observations made against the respondent No.2. However, we direct the Commission to put its best efforts to obtain the requisite information from the Officer concerned and provide it to the petitioner at the earliest

(2025) 5 ILRA 1478
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: LUCKNOW 27.05.2025

BEFORE

THE HON'BLE RAJAN ROY, J.
THE HON'BLE OM PRAKASH SHUKLA, J.

Writ C No. 10898 of 2024

Saurabh MishraPetitioner
Versus
State of U.P. & Ors. ...Respondents

Counsel for the Petitioner:
 Surendra Singh

Counsel for the Respondents:
 C.S.C.

Civil Law - Mental Healthcare Act, 2017 - Sections 2(za) & 14 - Rights of Persons with Disabilities Act, 2016 - Nominated representative of a person with mental illness - Section 14(4) of MH Act, 2017 enumerates five different categories of persons, who can be appointed, in case no nominated representative is appointed by a person under Section 14(1) of MH Act, 2017 - There is no criteria or suitability and also there is no mechanism provided under the MH Act, 2017 for appointment of a representative to take care of such intellectually challenged persons or their asset. This legal vacuum has been considered by the Courts and each time, the Courts had exercised its parens patriae jurisdiction while appointing a representative or a guardian under the MH Act, 2017. While exercising parens patriae jurisdiction, Courts have to apply the "wills and preferences" of the individual. The "wills and preferences" of the intellectually challenged person have to be determined either in the background of advance directives as stated hereinabove or in the absence of advance directives, it ought to be guided by the factors which point towards the 'wish & intent' of the said mentally ill person. (Para 13, 14, 15)

B. Constitution of India, 1950 -Article 226 - Examination of the validity of order - When a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or by a reply, otherwise, an order bad in the beginning may, by the time it comes