

VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

MONDAY, THE 9TH DAY OF MARCH 2026 / 18TH PHALGUNA, 1947

WP(C) NO. 8876 OF 2026

PETITIONER:

RAISA EAPEN,
AGED 36 YEARS, B13 GNRA, JAYAPRAKASH LANE,
KUDAPPANAKUNNU.P.O, THIRUVANANTHAPURAM,
PIN - 695043

BY ADV SRI.VIMAL VIJAY

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF LAND
REVENUE, SECRETARIAT, THIRUVANANTHAPURAM DISTRICT,
KERALA, PIN - 695001
- 2 STATE INFORMATION COMMISSION,
REPRESENTED BY CHIEF INFORMATION COMMISSIONER,
KERALA, PUNNER ROAD, THIRUVANTHAPURAM,
KERALA, PIN - 695001
- 3 JAYESH V V.,
SPECIAL TAHSILDAR [LR], TALUK OFFICE,
FORT KOCHI, PIN - 682001
SMT.SURYA BINOY SR. GP
SRI.M.AJAY SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09.03.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



2026:KER:21070

WP(C) NO. 8876 OF 2026

..2..

J U D G M E N T

This writ petition is filed challenging Ext.P6 order passed by the State Information Commission, Kerala, by which the penalty proceedings against the 3rd respondent, the State Public Information Officer (SPIO), under Section 20 of the Right to Information Act, 2005 (RTI Act) in Ext.P3 complaint filed by the petitioner, were dropped.

2. The petitioner has submitted Form-6 application under the Kerala Conservation of Paddy Land and Wetland Act, 2008 seeking reclassification of land. The petitioner states that, as per Circular No. LR/2207/2022-LR(A4)-Part(1) dated 24.12.2023 issued by the Land Revenue Commissioner, all Form-6 applications received on or before 31.12.2023 were required to be included and disposed of in the Revenue Adalat held on 17.02.2024. However, despite being fully eligible, the petitioner's application was arbitrarily excluded from consideration in



2026:KER:21070

WP(C) NO. 8876 OF 2026

..3..

the Adalat. Since no satisfactory explanation for such exclusion was forthcoming, the petitioner submitted Ext.P1 application dated 18.05.2024 to the 3rd respondent who was then the SPIO, Revenue Divisional Office, Fort Kochi, seeking information under the RTI Act. However, no reply was furnished within the statutory period of 30 days. Therefore, the petitioner preferred Ext.P3 second appeal under Section 19(3) of the RTI Act before the State Information Commission. Upon receipt of the appeal, the State Information Commission issued notice to the 3rd respondent seeking an explanation. The 3rd respondent replied to the State Information Commission, stating that a reply to Ext. P1 was issued on 26.06.2024. The petitioner states that no such reply was ever served on her.

3. The State Information Commission by Ext.P5 order observed that the 3rd respondent had failed to furnish information within the time prescribed and furnished false



2026:KER:21070

WP(C) NO. 8876 OF 2026

..4..

and misleading information and called for explanation as to why penalty proceedings under Section 20(1) of the RTI Act shall not be taken against him. The 3rd respondent furnished an explanation stating that the petitioner's online application in Form-6 was submitted only on 08.01.2024, after the cut off date of 31.12.2023, which can be verified, and that the delay in providing the information was due to work connected with the counting of votes in the election, transfer of staff, delay in allotment of e-office ID to new Junior Superintendant and that no misleading information had been furnished. The Commission accepted the explanation of the 3rd respondent and found that there was no wilful failure on his part in furnishing the information, and accordingly passed Ext.P6 final order, dropping further proceedings in the complaint.

4. The petitioner contends that Ext. P6 order was passed by the Commission absolving the 3rd respondent of



2026:KER:21070

WP(C) NO. 8876 OF 2026

..5..

all liability without furnishing her a copy of the explanation filed by him, without affording an opportunity to rebut the same, and without addressing or reconciling the findings recorded in Ext. P5 order. Therefore, the petitioner has filed this writ petition for the following reliefs:

"a. Issue writ of Certiorari or any other appropriate writ/order/direction quashing the impugned order in CP 411(1)/2024/SIC passed by Respondent No.2;

b. Issue a writ of Mandamus or other appropriate direction directing the 2nd Respondent to reconsider and dispose of C.P. No. 411(1)/2024/SIC afresh and pass a reasoned and speaking order within a time frame to be fixed by this Hon'ble Court;

c. To declare petitioner is eligible for invocation of the penal provisions under Section 20(1) of the RTI Act, including



2026:KER:21070

WP(C) NO. 8876 OF 2026

..6..

imposition of penalty @Rs.250/day u/s
20(1) & disciplinary inquiry u/s 20(2) RTI
Act against Respondent No.2 (sic
R3)/SPIO, with Rs.25,000/- compensation
u/s 19(8)(b)."

5. Heard Sri. Vimal Vijay, the learned counsel for the petitioner, Smt. Surya Binoy, the learned Senior Government Pleader and Sri.M.Ajay, the learned standing counsel for the State Information Commission.

6. In Ext.P6 order, the State Information Commission, after considering the explanation offered by the 3rd respondent, found that there was no wilful failure on the part of the 3rd respondent in furnishing the information sought by the petitioner and that no further proceedings under Section 20(1) of the RTI Act were necessary. The grievance of the petitioner is that Ext. P6 order is passed by the Commission absolving the 3rd respondent of all liability without furnishing her a copy of the explanation



2026:KER:21070

WP(C) NO. 8876 OF 2026

..7..

filed by the SPIO, and without affording an opportunity to rebut the same. Section 19 of the RTI Act deals with 'appeal' and Section 19 (8)(c) provides that the Central Information Commission or the State Information Commission, as the case may be, has the power to impose any of the penalties provided under the Act. Section 20 of the RTI Act deals with 'penalties' and reads thus:

"20. Penalties.--

(1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of Section 7 or *mala fidely* denied the request for information or knowingly



2026:KER:21070

WP(C) NO. 8876 OF 2026

..8..

given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information



2026:KER:21070

WP(C) NO. 8876 OF 2026

..9..

Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under subsection (1) of Section 7 or *mala fidely* denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.”

7. It is to be noted that the first *proviso* to Section



2026:KER:21070

WP(C) NO. 8876 OF 2026

..10..

20(1) of the RTI Act provides that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him. However, the RTI Act does not provide for the Central Information Commission or the State Information Commission to hear the 'appellant' in proceedings under Section 20. Unlike Section 19(8)(b) of the Act, which empowers the Commission to require the public authority to compensate the complainant for any loss or detriment suffered and thereby requiring an adjudication of such loss, the presence of the appellant is not necessary in penalty proceedings under Section 20 and the appellant is not required to lead evidence for the purpose of imposition of penalty. While the 'compensation' goes to the complainant, the 'penalty' goes to the State exchequer. The penalty proceeding under Section 20 of the RTI Act is purely a



2026:KER:21070

WP(C) NO. 8876 OF 2026

..11..

matter between the Central Information Commission or the State Information Commission and the CPIO or the SPIO, as the case may be. Here, it is apposite to refer to the Kerala State Information Commission (Procedure for Appeal) Rules, 2006 ('Rules' for brevity). Rule 7 of the Rules deals with personal presence of the appellant and it reads as follows:

"Rule - 7. Personal presence of the appellant.

- (1) The appellant shall, in every case, be informed of the date of hearing, at least seven clear days before that date.
- (2) The appellant may at his discretion be present in person, or through his duly authorised representative or may opt not to be present, at the time of hearing of the appeal by the Commission.
- (3) Where the Commission is satisfied that circumstances exist due to which the appellant who opted to be present before the Commission was prevented from attending the hearing of the Commission, then the Commission may afford the appellant another opportunity of being heard, before a final decision is taken or take any other



2026:KER:21070

WP(C) NO. 8876 OF 2026

..12..

appropriate action, as it may deem fit.

- (4) The appellant may seek the assistance of any person in the process of the appeal, while presenting his or her points and the person representing him or her need not be a legal practitioner.

Thus, the appearance of the 'appellant' before the State Information Commission is optional. Even if the appellant opts not to be present, the State Information Commission has to dispose of the appeal as per the provisions of the RTI Act. However, the RTI Act mandates that, before any penalty is imposed, the SPIO shall be given a reasonable opportunity of being heard. The penalty proceeding under Section 20 of the Act is essentially a matter between the State Information Commission and the concerned SPIO. Therefore, the petitioner's contention that the 3rd respondent was absolved of liability without furnishing her a copy of the explanation of the 3rd respondent and without affording an opportunity to rebut



2026:KER:21070

WP(C) NO. 8876 OF 2026

..13..

the same is untenable. The petitioner has no right to be heard in the penalty proceedings under Section 20(1) of the RTI Act, unless permitted by the State Information Commission.

8. To avoid the penalty, the CPIO/ SPIO has to prove that he acted reasonably and diligently. The opinion formed by the Central Information Commission or the State Information Commission at the stage of deciding the complaint or appeal and issuing a show cause notice is only prima facie in nature. If the Central Information Commission or the State Information Commission finds that the explanation of the SPIO is satisfactory, the Commission can drop the penalty proceedings. The State Information Commission, after considering the explanation of the 3rd respondent and hearing him, found no reason to impose penalty and consequently dropped further proceedings on the complaint. The said finding cannot be termed as



2026:KER:21070

WP(C) NO. 8876 OF 2026

..14..

erroneous or perverse. I do not find any reason to interfere with Ext.P6 order passed by the State Information Commission. Accordingly, the writ petition is dismissed.

Sd/-

MURALI PURUSHOTHAMAN
JUDGE

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2026:KER:21070

WP(C) NO. 8876 OF 2026

..15..

APPENDIX

PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF THE RTI APPLICATION SUBMITTED BY THE PETITIONER TO THE STATE PUBLIC INFORMATION OFFICER DT. 18.05.2024
- Exhibit P2 A TRUE COPY OF THE P&T SLIP OBTAINED FROM INDIA POST SITE CONFIRMING THE RECEIPT OF RTI APPLICATION ON 20.05.2025 BY THE SPIO AT RDO OFFICE, FORT KOCHI
- Exhibit P3 A TRUE COPY OF THE SECOND APPEAL FILED BY THE PETITIONER BEFORE THE STATE INFORMATION COMMISSION DT. 24.06.2024
- Exhibit P4 A TRUE COPY OF THE REPLY TO THE PETITIONER'S RTI TO OBTAIN A COPY OF THE REPLY PURPORTED TO HAVE BEEN SENT BY THE SPIO, RECEIVED FROM SIC DT 02.09.2024
- Exhibit P5 A TRUE COPY OF THE FIRST ORDER OF THE CIC FILE NO. 5610/SIC-GEN4/2024 DT 21.03.2025
- Exhibit P6 A TRUE COPY OF THE FINAL ORDER OF THE CIC FILE NO. 5610/SIC-GEN4/2024