ITEM NO.30 COURT NO.4 SECTION IVA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil)...../2013
CC 1853/2013

(From the judgement and order dated 15/06/2012 in WA No.3255/2010, of The HIGH COURT OF KARNATAKA AT BANGALORE)

KARNATAKA INFORMATION COMMISSIONER Petitioner(s)

VERSUS

STATE PUBLIC INFORMATION OFFICER & ANR Respondent(s)

(With appln(s) for c/delay in filing SLP and office report))

Date: 18/01/2013 This Petition was called on for hearing today. CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE H.L. GOKHALE

For Petitioner(s) Mr. V.N. Raghupathy,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

Delay condoned.

This petition filed by Karnataka Information Commissioner for setting aside order dated 15.6.2012 passed by the Division Bench of the Karnataka High Court in Writ Appeal No.3255/2010 (GM-RES) titled Karnataka Information Commission v. State Public Information Officer and another cannot but be described as a frivolous piece of litigation which deserves to be dismissed at the threshold with exemplary costs.

Respondent No.2 filed an application under Section 6(1) of the Right to Information Act, 2005 (for short, 'the Act') and sought certain documents and information from the Public Information Officer - Deputy Registrar

(Establishment) of the High Court of Karnataka (respondent No.1). His prayer was for supply of certified copies of some information/documents regarding guidelines and rules pertaining to scrutiny and classification of writ petitions and the procedure followed by the Karnataka High Court in respect of Writ Petition Nos.26657 of 2004 and 17935 of 2006.

Respondent No.1 disposed of the application of respondent No.2 vide order dated 3.8.2007 and intimated him that the information sought by him is available in the Karnataka High Court Act and the Rules and he can obtain the certified copies of the order sheets of the two writ petitions by filing appropriate application under the High Court Rules.

Respondent No.2 filed complaint dated 17.1.2008 under Section 18 of the Act before the Karnataka Information Commission (for short, 'the Commission')and made a grievance that the certified copies of the documents had not been made available to him despite payment of the requisite fees. The Commission allowed the complaint of respondent No.2 and directed respondent No.1 to furnish the High Court Act, Rules and certified copies of order sheets free of cost.

Respondent No.1 challenged the aforesaid order in Writ Petition No.9418/2008. The learned Single Judge allowed the same and quashed the order of the Commission by making the following observations:

> "The information as sought for by the respondent in respect of Item Nos. 1, 3 and 4 mentioned above are available in Karnataka High Court Act and Rules made thereunder. The said Act and Rules are available in market. If not available, the respondent has to obtain copies of the same from the publishers. It is not open for the

respondent to ask for copies of the same from the petitioner. But strangely, the Karnataka Information Commission has directed the petitioner to furnish the copies of the Karnataka High Court Act & Rules free of cost under Right to Information Act. The impugned order in respect of the same is illegal and arbitrary.

The information in respect of Item Nos.6 to 17 is relating to Writ Petition No.26657/2004 and Writ Petition No. 17935/2006. The respondent is a party to the said proceedings. Thus, according to the Rules of the High Court, it is open for the respondent to file an application for certified copies of the order sheet or the relevant documents for obtaining the same. (See Chapter-17 of Karnataka High Court Rules, 1959). As it is open for the respondent to obtain certified copies of the order sheet pending as well as the disposed of matters, the State Chief Information Commissioner is not justified in directing the petitioner to furnish copies of the same free of costs. If the order of the State Chief Information Commissioner is to be implemented, then, it will lead to illegal demands. Under the Rules, any person who is party or not a party to the proceedings can obtain the orders of the High Court as per the procedure prescribed in the Rules mentioned supra. The State Chief Information Commissioner has passed the order without applying his mind to the relevant Rules of the High Court. The State Chief Information Commissioner should have adverted to the High Court Rules before proceeding further. Since the impugned order is illegal and arbitrary, the same is liable to be quashed. Accordingly, the following order is made."

Respondent No.2 did not challenge the order of the learned Single Judge. Instead, the Commission filed an appeal along with an application for condonation of 335 days' delay. The Division Bench dismissed the application for condonation of delay and also held that the Commission cannot be treated as an aggrieved person.

We have heard Shri V. N. Raghupathy, learned counsel for the petitioner.

What has surprised us is that while the writ

appeal was filed by the Commission, the special leave petition has been preferred by the Karnataka Information Commissioner. Learned counsel could not explain as to how the petitioner herein, who was not an appellant before the Division Bench of the High Court can challenge the impugned order. He also could not explain as to what was the locus of the Commission to file appeal against the order of the learned Single Judge whereby its order had been set aside.

The entire exercise undertaken by the Commission and the Karnataka Information Commissioner to challenge the orders of the learned Single Judge and the Division Bench of the High Court shows that the concerned officers have wasted public money for satisfying their ego. If respondent No.2 felt aggrieved by the order of the learned Single Judge, nothing prevented him from challenging the same by filing writ appeal. However, the fact of the matter is that he did not question the order of the learned Single Judge. The Commission and the Karnataka Information Commissioner had no legitimate cause to challenge the order passed by the learned Single Judge and the Division Bench of the High Court. Therefore, the writ appeal filed by the commission was totally unwarranted and misconceived and the Division Bench of the High Court did not commit any error by dismissing the same.

With the above observations, the special leave petition is dismissed. For filing a frivolous petition, the petitioner is saddled with cost of Rs.1,00,000/-. The amount of cost shall be deposited by the petitioner with the Supreme Court Legal Services Committee within a period of 2 months from today. If the needful is not done, the

Secretary of the Supreme Court Legal Services Committee shall recover the amount of cost from the petitioner as arrears of land revenue.

(Parveen Kr.Chawla)
Court Master

(Phoolan Wati Arora)
Court Master