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IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE
HON'BLE SHRI JUSTICE SHEEL NAGU
&
HON'BLE SHRI JUSTICE ARUN KUMAR SHARMA

ON THE 24th OF JUNE, 2022

WRIT PETITION No. 1352 of 2022

Between:-

**PRADEEP KUMAR SHRIVASTAVA S/O LATE K.P
SHRIVASTAVA , AGED ABOUT 59 YEARS,
OCCUPATION: SERVICE ASSISTANT GRADE 2
(PLACED UNDER SUSPENSION) ITWARA BAZAR
KATHAL BUILDING COMMERCIAL TAX OFFICE
(MADHYA PRADESH)**

.....PETITIONER

**(SHRI K.K. GAUTAM, LEARNED COUNSEL FOR THE PETITIONER
)**

AND

- 1. STATE INFORMATION COMMISSION THROUGH
CHIEF INFORMATION COMMISSIONER
SUCHNA BHAWAN, 35-B, ARERA HILLS, BHOPAL
(MADHYA PRADESH)**
- 2. FIRST APPELLATE AUTHORITY INFORMATION
ACT UNDER RIGHT TO 2005 OFFICE OF DEPUTY
COMMISSIONER COMMERCIAL TAX HEAD
QUARTER INDORE (MADHYA PRADESH)**
- 3. PUBLIC INFORMATION OFFICER OFFICE OF
ASSISTANT COMMISSIONER COMMERCIAL
TAX INDORE (MADHYA PRADESH)**

.....RESPONDENTS

**(BY SHRI V.S. CHOUDHARY, ADVOCATE FOR THE RESPONDENT
No.1, SHRI PIYUSH DHARAMADHIKARI, GOVERNMENT
ADVOCATE FOR THE RESPONDENTS)**

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*This petition has come up for hearing on this day, JUSTICE SHEEL
NAGU passed the following:*

ORDER

Present petition under Article 226 of the Constitution essentially assails the action of the respondents in denying the copy of the order of grant of sanction for prosecution against the petitioner, who is alleged to be an accused in Crime No.05/2018, registered at Police Station-Special Police Establishment Bhopal, District-Bhopal (M.P.) alleging offences punishable U/s 7, 13(1)D, 13(2) of Prevention of Corruption Act, 1988.

While taking decision for denying supply of copy of the order of grant of sanction the reasons assigned was of pendency of investigation in Crime No. 05/2018..

However, learned counsel for the respondents informs that the charge-sheet in the matter has already been filed way back on 20th June, 2020.

It is noticed from the facts and pleadings that the Public Information Officer vide order dated 28.07.2020 (Annexure P/3) had denied supply of the order of grant of sanction for prosecution after about a month the event of filing of charge sheet on 20.06.2020.

It seem that the Public Information Officer was not aware of the fact that charge sheet had been filed on 20.06.2020 while taking the impugned decision on 28.07.2020 and, therefore, by taking recourse to Section 8(1) (h) of the RTI Act, the request for supply of the requisite document was declined.

Considering the aforesaid, it is obvious that since charge sheet has been filed the recourse to Section 8(1)(h) of the RTI Act could not have been taken.

Accordingly, the impugned decision dated 28.07.2020 (Annexure P/3), the appellate order dated 31st August, 2021 (Annexure P/6) and the order passed in Second Appeal (Annexure P/8) dated 23.06.2021 are set-aside.

The respondents are directed to supply a copy of order of grant of sanction to the petitioner provided that the petitioner has not been supplied with

the same along with copy of the charge sheet.

From the facts of the case, it is evident that in all fairness the Public Information Officer while rejecting the request for grant of copy of the order of sanction for prosecution ought to have verified the fact as to whether the investigation is over by filing a charge sheet or not. No effort was made in that regard. Moreso, the First Appellate Authority and the Second Appellate Authority i.e. respondent Nos.2 and 1 ought to have also noticed this mistake which was not done. The burden of bearing the cost thus ought to rest on the higher authority rather than the lower authority

In view of the aforesaid, it is obvious that the petitioner was compelled to knock the doors of this Court by initiating the present avoidable piece of litigation. Therefore, this Court directs that the petitioner shall be paid a cost of Rs.2,000/- (Rupees Two Thousand only), by the respondent No.1 within 60 days failing which the matter be listed as PUD for compliance qua cost.

With the aforesaid, the petition stands allowed with cost.

(SHEEL NAGU)
JUDGE

Vin**

(ARUN KUMAR SHARMA)
JUDGE