

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CWP No.16389 of 2012
Date of decision:16.01.2015**

Narinder Singh

...Petitioner

Versus

Union of India and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Balram Singh, Advocate for the petitioner.

Mr.Karminder Singh, Advocate for the respondents.

RAMESHWAR SINGH MALIK, J. (Oral)

The present writ petition is directed against the order dated 3.2.2012 (Annexure P-2), whereby information sought by the petitioner was denied and also the appellate order dated 20.7.2012 (Annexure P-3), whereby appeal of the petitioner was dismissed.

Notice of motion was issued and pursuant thereto, written statement has been filed on behalf of respondent No.1.

Learned counsel for the petitioner relies on a Division Bench judgment dated 28.4.2011 passed by this Court in **LPA No.744 of 2011 (First Appellate Authority cum Additional Director General of Police and another v. Chief Information Commission, Haryana and another)**, to contend that the present case is squarely covered by the Division Bench judgment (Annexure P-4). He further submits that the petitioner was being

treated in the most arbitrary manner, while denying him the requisite information which he sought under the Right to Information Act, 2005 ('RTI Act' for short). He prays for setting aside the impugned orders, by allowing the present writ petition.

Per contra, learned counsel for respondent No.1 submits that the organisation namely Border Security Force was a security organisation, it has been exempted under Section 24 of the RTI Act from providing any information, except the information pertaining to allegation of corruption and human rights violation. The information sought by the petitioner was rightly denied to him. Since the appeal of the petitioner was misconceived, it was rightly dismissed by the Central Information Commission. He further submits that the judgment relied upon by the petitioner is not applicable to the facts of the present case. He prays for dismissal of the writ petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, instant writ petitions deserves to be allowed. To say so, reasons are more than one, which are being recorded hereinafter.

The information sought by the petitioner vide his application dated 12.12.2011 (Annexure P-1), was as under:-

“That you are here requested to kindly give the complete detail of the employees with their names, address, Unit no. Peti No. amount of pension, who have completed their service 10 years in B.S.F. and less than 15 years and getting pension after resignation, in period of 31.7.1973, to December, 1995.”

Similar controversy fell for consideration before the Division

Bench of this Court in LPA No.744 of 2011, referred to hereinabove, and it was decided in favour of the appellant like the petitioner vide judgment dated 28.4.2011 (Annexure P-4). Despite best efforts having been made, learned counsel for respondent No.1 could not distinguish the judgment (Annexure P-4) and rightly so, because it was a matter of record. The relevant observations made by the Division Bench in its judgment Annexure P-4, which can be gainfully followed in the present case, read as under:-

“The scope of expression administrative corruption includes arbitrariness in implementation of policies, grant of benefit to the officers in violation of the Rules. Therefore, the information in respect of the available vacancies and the manner in which such vacancies are filled up would be relevant to exclude the allegations of corruption.

Another write up is available on <http://www.thegeminigeek.com>. The word corruption is explained as destructive, ruining or the spoiling of the society or a nation. The corrupt society stops prevailing integrity, virtue or moral principles. It changes for the worse. Such a society begins to decay and sets itself on the road to self destruction. Corruption is an age old phenomena. Selfishness and greed are the two main causes of corruption. Political corruption is the abuse of the powers by state officials for their unlawful private gain. A corrupt society is characterized by immorality and lack of fear and respect for the law. Corruption cannot be divorced from economics and inequality of wealth, low wages and salaries are some of the economic causes of corruption. Corruption has prevailed in all forms of government. Various forms of corruption include extortion, graft, bribery, cronyism, nepotism, embezzlement and patronage. Corruption allows criminal activities such as money laundering, extortion and drug trafficking to thrive.

As mentioned above, the expression pertaining to allegation of corruption cannot be exhaustively defined. The

Act is to step-in-aid to establish the society governed by law in which corruption has no place. The Act envisages a transparent public office. Therefore, even in organizations which are exempt from the provisions of the Act, in terms of the notification issued under Section 24(4) of the Act, still information which relates to corruption or the information which excludes the allegation of corruption would be relevant information and cannot be denied for the reasons that the organization is exempted under the Act.

The information sought in the present case is in respect of the number of vacancies which have fallen to the share of the specified category and whether such posts have been filled up from amongst the eligible candidates. If such information is disclosed, it will lead to transparent administration which is antithesis of corruption. If organization has nothing to hide or to cover a corrupt practice, the information should be made available.”

A bare perusal of the ratio of the judgment (Annexure P-4) would show that number of vacancies which had fallen to the share of specified category and whether such posts had been filled up from amongst the eligible candidates, had nothing to do with the corruption as such. However, while interpreting the expression administrative corruption, Division Bench came to the conclusion that if such information is disclosed, it will lead to transparent administration which is anti thesis of corruption. It was further observed that if organisation has nothing to hide or to cover a corrupt practice, the information should be made available.

Exactly similar is the fact situation obtaining in the present case. Learned counsel for respondent No.1 has fairly stated that there was nothing to hide at the hands of the respondent-department. If that is so, the information sought by the petitioner ought to have been supplied to him,

without seeking any immunity therefrom.

Since the law laid down by the Division Bench of this Court in the judgment appended at Annexure P-4 has not been followed by the respondent authorities, the impugned orders cannot be sustained. It is so said, because learned counsel for respondent No.1 could not point any contrary judgment, during the course of hearing. Under these circumstances, it can be safely concluded that the impugned orders are patently illegal and the same cannot be sustained.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned orders have been found to be patently illegal, the same are hereby set aside. Respondent No.1 is directed to supply the information sought by the petitioner without any further loss of time but in any case within a period of six weeks from the date of receipt of a certified copy of this order.

Resultantly, with the above-said observations made and directions issued, the present writ petition stands allowed, however, with no order as to costs.

16.01.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE