

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.12370 of 2012
Decided on :04.07.2016**

T.S. Sidhu

... Petitioner

Versus

The State Information Commission, Punjab and another

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. J.S. Ahluwalia, Advocate
for the petitioner.

Mr. Parminder Pal Singh Thethi, Addl. AG, Punjab.

Mr. Surinder Garg, Advocate
for respondent No.2.

G.S. Sandhawalia, J. (Oral)

The petitioner challenges the order dated 17.05.2012 (Annexure P-12) passed by respondent No.1, whereby recommendation has been made to the Principal Secretary to the Government of Punjab, Department of Technical Education and Industrial Training, to initiate disciplinary proceedings for minor mis-conduct under the Punishment and Appeal Rules against him.

The reason for such recommendation by the respondent No.1 is on account of the highly delayed information, which was provided to the respondent No.2 on 01.03.2012, on the basis of an RTI application dated 07.04.2011. The reasoning given by the respondent-Commission is on account of the fact that the petitioner had not acted in time and there was careless and evasive approach adopted by him. Further finding was recorded that the Public Information Officers (PIOs) were made to act as

instructed by the Principal and, therefore, they cannot be held responsible for the delay and, accordingly, the recommendation was made to initiate disciplinary proceedings against the present petitioner.

A perusal of the record would go on to show that initially an application was filed by respondent No.2 seeking information about management and control of Shaheed Bhagat Singh College of Engineering and Technology, Ferozepur. The details were sought regarding the minutes and proceedings and of the Board of Governors of the said college and certified copies of the agendas and approval etc.

It is not disputed that the said respondent is a staff member of the said college, whereas, the petitioner is the Principal. The said request for supply of information was made to the Secretary on 07.04.2011, which was forwarded to the college on 29.04.2011 (Annexure P-2). The same was received on 04.05.2011 by the college and on 30.05.2011 (Annexure P-3) a sum of ₹1,822/- was assessed by the PIO and copy of the same was sent to the Director Technical Education and Industrial Training Department. Even as per information sought under Clause-4 no specific information was sought as to what was to be made available.

Instead of depositing the amount assessed, the respondent No.2 on non-receipt of the information within 30 days on 30.06.2011 (Annexure P-4) filed an appeal before the Appellate Authority which the petitioner was heading. On 22.07.2011 (Annexure P-5), the said Appellate Authority demanded the amount for supplying the said

information and asked for deposit of the same. The Principal Secretary had also communicated vide letter dated 26.08.2011 with the college and, accordingly, the petitioner, in his official capacity as Principal, vide letter dated 19.09.2011 (Annexure P-6) requested that the respondent No.2 should deposit the amount.

Accordingly, notice was issued on 18.01.2012 (Annexure P-7) to the petitioner by respondent No.1-State Information Commission in the 2nd appeal and on 01.03.2012 and 12.03.2012 the requisite documents were supplied. The petitioner also submitted his explanation highlighting the fact that the fee has not been deposited and eventually the information has been provided free of cost.

Vide order dated 28.03.2012 (Annexure P-10), the respondent-Commission directed that complete information on point No.4 be also supplied and, thereafter, the impugned order was passed on 17.05.2012 (Annexure P-12).

The reasoning has already been discussed above. From the impugned order it is not clear as to how the responsibility has been fixed upon the petitioner, who was acting as the Appellate Authority and a finding has been recorded that the PIOs were made to act as instructed by the Principal. Nothing has been recorded as to whether the said PIO had filed any such affidavit that petitioner who was the Principal had instructed him to delay the proceedings and not supply the information to the respondent No.2.

Admittedly, the application was only forwarded to the

petitioner college on 29.04.2011 and was received on 04.05.2011, which would be clear from Annexure P-2. Within a period of one month on 30.05.2011 a demand was made for the costs which were required for supply of the information. Under Section 7 (3) (a) of the Right to Information Act, 2005 where a decision is taken to provide the information, the details of fee are to be assessed and request is made to deposit the same.

It is not disputed that the said amount was never deposited by respondent No.2 and eventually the information was supplied free of cost at the insistence of the Principal Secretary.

In such circumstances, this Court is of the opinion that the finding which has been recorded that the petitioner specifically directed the PIO not to supply the information and to delay, the same is not substantiated in any manner. The same is recorded on the basis of surmises and conjectures and is not sustainable. Accordingly, the said directions to initiate disciplinary proceedings, which have been issued against the petitioner cannot be sustained, keeping in view the above background as discussed.

Accordingly, the present writ petition is allowed and the said recommendation is set aside.

JULY 04, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE