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

**Civil Writ Petition No.18727 of 2011**

**Date of decision: 17.11.2016**

Santokh Raj

**...Petitioner**

**Versus**

The State Information Commission, Punjab and others **...Respondents**

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

Present: Mr. Harit Sharma, Advocate for the petitioner.

Ms. Lavanya Paul, Assistant Advocate General, Punjab.

Mr. Sardavinder Goyal, Advocate for respondent no.3.

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**G.S.SANDHAWALIA, J. (Oral)**

The petitioner challenges the order dated 4.8.2011 (Annexure P/3) whereby penalty of ₹ 25,000/- has been imposed upon him under Section 20 (1) of the Right to Information Act, 2005 (hereinafter referred to as “the Act”). Challenge has also been raised to the order dated 8.9.2011 (Annexure P/5) whereby interim compensation of ₹ 3,000/- was awarded on an application filed by the petitioner for setting aside the order dated 4.8.2011 (Annexure P/3).

The grouse of the petitioner is that being the Branch Manager of Gurdaspur Central Coop. Bank, Fatehgarh Churian, District Gurdaspur, a penalty of ₹ 25,000/- was levied upon him on account of the fact that the application dated 20.3.2010 (Annexure P/1) under the Act has been moved by respondent no.3 seeking information and which had not been acted upon. It is his case that the head office vide communication (Annexure

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P/2) had replied to respondent no.3 that the bank was not a public authority so Section 2 (h) of the Act was not applicable to it and the bank was not bound to furnish information. It is a matter of fact that private respondent thereafter filed a complaint aggrieved against the non supply of information before the respondent Commission. Proceedings had been adjourned sine die on account of the fact that the issue whether Act would be applicable or not to the Cooperative Societies was pending before this Court.

The complaint was reopened thereafter and on account of the non appearance of the petitioner, who had been arrayed as Public Information Officer in the complaint of the Cooperative Bank, a penalty of ₹ 25,000/- was imposed which was to be deposited in four monthly equal installments. The Commission had also exercised its powers under Section 18(3) of the Act to enquire into the matter and directed the petitioner to come forth and to be present in the Commission and bring all the relevant record relating to four queries of the information sought by the private respondent. Thereafter, an application for setting aside exparte order dated 4.8.2011 (Annexure P/3) was filed by the petitioner on 8.9.2011 (Annexure P/4).

Vide impugned order dated 8.9.2011 (Annexure P/5) the Commission directed interim compensation of ₹ 3,000/- to the complainant and further direction was issued that the information shall be furnished before the next date of hearing. Notice was also ordered to be issued to Mrs. Kavita Bedi, Senior Manager, (Gurdaspur Central Cooperative Bank) as it was the plea of the petitioner that he was not the Public Information Officer. Thereafter, vide order dated 5.10.2011 (Annexure R/3/1) it was

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noticed that amount of ₹ 3,000/- which had been awarded as compensation had to be paid by the Public Authority, namely, the bank which admittedly has chosen not to contest the same.

Counsel for the respondent no.3 also submits that under Section 19(8)(b) of the Act, the Public Authority is required to compensate the complainant for any loss or detriment.

In such circumstances, the petitioner cannot have any grouse against the order dated 8.9.2011 (Annexure P/5) and even the Commission had noticed that the amount of compensation is to be paid by the Public Authority which has not chosen to challenge the said order. Accordingly, qua this issue the present writ petition is not maintainable at the instance of the petitioner.

Regarding the other issue of imposition of penalty, in view of the application filed the matter is pending consideration under Section 18 (3) of the Act and notice had already been issued to Mrs. Kavita Bedi, Senior Manager, Gurdaspur Central Cooperative Bank in view of the plea taken by the petitioner that he was not the Public Information Officer. A perusal of order dated 5.10.2011 (Annexure R/3/1) would go on to show that the issue of imposition of penalty is still pending. Accordingly, this Court is of the opinion that the issue regarding whether penalty is to be imposed upon the petitioner or not is still pending consideration before the Commission.

Counsel for the parties could not point out that whether any final order thereafter has been passed on the said proceedings by the Commission. Even vide interim order dated 4.10.2011 proceedings before

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the Commission had never been stayed by this Court

Accordingly, the present writ petition is pre-mature and is disposed as such. The issue regarding whether the bank is a public authority is left open and it will be open to the Commission to decide the same in view of the observations of the Supreme Court in **Thalappalam Ser.Coop. Bank Ltd. and others Vs. State of Kerala and others** 2013(16) SCC 82.

It is open to the petitioner to challenge any adverse order which is passed against him in accordance with law.

**November 17, 2016**  
**Pka**

**(G.S.SANDHAWALIA)**  
**Judge**

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No