

CWP No.11758 of 2016 (O&M)

[1]

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

**CWP No.11758 of 2016 (O&M)
Date of decision:15.07.2016**

Dr. Mohinder Kumar

...Petitioner

Versus

Supreme Court of India through Registrar General

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Dr. Mohinder Kumar,
petitioner in person.

Rakesh Kumar Jain, J.

The petitioner had initially filed CRM-M-10887 of 2016 under Section 482 of the Criminal Procedure Code, 1973 (hereinafter referred to as the “Cr.P.C.”), seeking a direction against the respondent to supply a copy of the administrative order passed on the application filed by the petitioner under Section 197 Cr.P.C. dated 28.12.2015. The petitioner appeared in person. On 30.03.2016, this Court passed the following order in this case:-

“Petitioner *inter alia* wishes to address on the scope of directions that can be issued in inherent jurisdiction of this court under section 482 Cr.P.C. Besides, he wants to modify the prayer made in the head-note of the petition.

To be listed as and when appropriate application is filed.”

On 27.05.2016, the following order was passed:-

“CRM-16551-2016

CWP No.11758 of 2016 (O&M)

[2]

This is an application under Section 482 Cr.P.C. seeking amendment in the headnote and prayer clause of the petition as stated in Para 2 of the application. According to the applicant-petitioner, it is necessary to add prayer in the nature of Article 226 of the Constitution.

Keeping in view the relief prayed for, modification as sought, is allowed. Petition be treated as the petition under Article 226 of the Constitution as well.

CRM-M-10887-2016

To be listed as per roster.”

Consequently, the Criminal Miscellaneous Petition was converted into Civil Writ Petition No.11758 of 2016.

During the course of hearing, the petitioner filed an application bearing CM No.7425 of 2016 in order to place on record an order of the Appellate Authority under the Right to Information Act, 2005 (hereinafter referred to as the “Act”) dated 25.04.2016. The said application is allowed and the order is taken on record.

The petitioner has prayed that the respondent may be directed to supply a copy of the administrative order which might have been passed by the Supreme Court on his application dated 28.12.2015, attached as Annexure P-1.

I have heard the petitioner and perused the record.

It is averred in the application dated 28.12.2015 that a complaint was lodged by the Punjab and Haryana High Court through the then Registrar (Rules) Shri Virender Aggarwal in the Court of Chief Judicial Magistrate, Chandigarh, in which the petitioner has been summoned under Sections 182, 186, 209 and 465 IPC. According to the petitioner, the averments made in the complaint dated 25.02.2009 filed by

CWP No.11758 of 2016 (O&M)

[3]

Shri Virender Aggarwal were factually wrong, therefore, vide his application dated 10.07.2009, addressed to the Chief Justice of this Court, he sought permission under Section 197 Cr.P.C. to prosecute the said Registrar (Rules). However, the reply to this application received by him under the Act, allegedly shows that vide order dated 30.09.2015 passed by Justice S.K.Mittal (as he then was), the permission was declined. The petitioner then filed the application dated 28.12.2015 to the Chief Justice of India under Section 197 Cr.P.C. for permission to register FIR against the aforesaid Judge under Section 218 and 219 IPC.

There is no dispute that the petitioner also filed an application dated 27.01.2016 to the Central Public Information Officer (CPIO) of the Supreme Court in respect of the action taken on his application (Annexure P-1) which was alleged to have been sent by speed post on 29.12.2015 and was allegedly received in the office on 31.12.2015. In the said application, he has prayed for supplying of speaking order/reasons for not granting permission under Section 197 Cr.P.C. to proceed against the said Judge so that he may seek judicial review of the administrative order. The said application of the petitioner was decided by the CPIO with the following order on 25.02.2016:-

“With reference to your application dated 27/1/2016 received in this Secretariat on 1/2/2016, I write to inform you in respect of your letter-dated 28/12/2015 as under:

The issue of providing information relating to appointment of and/or complaints against Hon'ble Judges is the subject matter of judicial proceedings in SLP Nos.32855-56 of 2009 now converted into Civil Appeal Nos.10044-45 of 2010 which are now sub-judice before this Hon'ble Court.

CWP No.11758 of 2016 (O&M)

[4]

Further, in terms of order dated 4/12/2009 in SLP (C) No.32855-56/2009 titled “Central Public Information Officer & Anr. V. Subhash Chandra Agrawal” there is a stay of disclosure of information relating to matters like the present one.

Further, the disclosure of information and reports emanating out of a self evolved mechanism which is in the nature of an In-House Procedure by the judiciary is expressly prohibited in terms of the decision dated 9/5/2003 in Writ Petition (Civil) No.218 of 2003 titled Indira Jaising V. Registrar, General, Supreme Court of India.

Hence disclosure of information in this regard may constitute contempt of court. Therefore, the information in the nature sought by you is exempted under Section 8(1)(b) of the Right to Information Act, 2005.

Further, the information in the nature sought by you is confidential and is exempted under Section 8(1)(e) & (j) of the Right to Information Act, 2005, you have no right to access the said information under section 2(j) of the Right to Information Act, 2005.

Ld. Registrar (Admn.), Supreme Court of India is the First Appellate Authority under the Right to Information Act, 2005 and the appeal can be filed within 30 days from the receipt of this reply.”

Thereafter, the present petition was filed on 08.03.2006, which was re-filed by the petitioner after removing objection raised by the Registry on 22.03.2016 and was listed thereafter for preliminary hearing on 30.03.2016. It is also pertinent to mention that while the present proceedings were pending, the present petitioner filed an appeal No.124/2016 before the Appellate Authority against the order dated 25.02.2016 of the CPIO. The said appeal has been dismissed on 25.04.2016 with the following observations:-

“The reply of the CPIO did not find favour with the appellant. He assailed the same in this first appeal filed by him.

CWP No.11758 of 2016 (O&M)

[5]

Notice of the appeal has been issued to the appellant and the relevant record has been considered/examined by me.

The reply of the CPIO is explicit and clear. It does not require any addition, elucidation or further elaboration. There appears to be no error or illegality in it. Viewed in that context the same has to be sustained as a consequence of which the appeal of the appellant entails dismissal and it is accordingly dismissed.

The Appellant, if aggrieved by this Order, is entitled to prefer Second Appeal before the Central Information Commission, 2nd Floor, 'B' Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi-110 066 under Section 19(3) of the Act, within 90 days from the date of communication of this Order.”

Once the petitioner has already been pursuing his remedy under the Act for the same relief for which he has filed the present petition for seeking a direction to deliver the order passed by the Supreme Court on his application dated 28.12.2015 and still has the statutory remedy of second appeal, as observed by the Appellate Authority in its order dated 25.04.2016, the present petition, invoking extra-ordinary jurisdiction of this Court under Article 226/227 of the Constitution of India, is not maintainable at this stage.

Consequently, I do not find any reason to interfere in this petition and hence, the same is hereby dismissed.

July 15, 2016
vinod*

(Rakesh Kumar Jain)
Judge