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

Civil Writ Petition No.17718 of 2014 (O&M)

Date of decision: 26.7.2016

Subhash

...Petitioner

Versus

State Information Commission, Haryana and others

...Respondents

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

Present: Mr. Pardeep Kumar Rapria, Advocate for the petitioner.

Mr. Gaurav Jindal, Addl. Advocate General, Haryana and
Mr. Randhir Singh, Addl. Advocate General, Haryana
for the respondents.

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges order dated 2.4.2014 (Annexure P/6) whereby the respondent-Commission has upheld order dated 20.11.2013 (Annexure P/2) passed by respondent no.2-State Public Information Officer-cum-Deputy Secretary to Government, Haryana, Personnel Department and the order dated 16.12.2013 (Annexure P/4) passed by the Secretary to Government, Haryana Personnel Department-cum-First Appellate Authority. The respondent-Commission came to the conclusion that the information had been rightly denied to the petitioner while placing reliance upon the judgment of the Apex Court in **Girish Ramchandra Deshpande Vs. Central Information Commissioner and others 2012(8) SCR 1097** and a finding was recorded that the information which was sought was primarily between the employee and the employer and therefore disclosure of which had no relationship to any public authority or public interest. The petitioner's argument that citizen has a right to know the

action taken against public servants involved in corruption charges was accordingly not taken into consideration while upholding the orders passed by the authorities below. Resultantly, the present writ petition has been filed.

Counsel for the petitioner at the very outset submits that out of the information which is sought vide application dated 24.10.2013 (Annexure P/1), he restricts his claim only to the issue of corruption against the officers and does not press for the information regarding other complaints and disciplinary action taken against the said officers. The information which was sought under the Right to Information Act, 2005 (hereinafter referred to as "the Act") reads as under:-

"Subject: Application under the RTI Act.

Subject matter of information : Information about the complaints and corruption cases against the serving and retired IAS, IPS, IRS, HCS, HPS officers.

Sir,

Please furnish below mentioned information under the RTI Act.

1. Against how many officers of the aforesaid cadre the cases (of all types) were registered, during the aforesaid period?
2. Please inform about the action taken by the State Government against such officers.
3. In how many cases the actions/proceedings are still pending? As per record, please inform the reasons for pendency.
4. As per the State Government Rules, what benefits of such officers can be withheld?
- 5) Please inform, benefits of how many officers were withheld? Please provide the name and designation of such officers.
- 6) Please provide the names and designations of such officers, who were granted all benefits like increments, promotion, extension of service, reinstatement etc. despite registration of cases against

them.

7) Please provide the copy of orders vide which the service benefits were given to such officers against whom cases had been registered. Also provide the names and designations of such officers who granted service benefits to the officers against whom cases had been registered.”

It is not disputed that regarding Clause 4, necessary relief has already been granted by the respondent-Commission and the petitioner is also not aggrieved against the same as the matter has been transferred to appropriate authority under Section 6(3) of the Act for furnishing information. However, a perusal of the above information sought would go on to show that the petitioner seeks information as to the cases of all types which were registered against the said officers.

As noticed above, the petitioner has restricted his relief only to the corruption cases against the officers. The Indian Revenue Service officers will not be covered under the claim filed as the respondent-SPIO would not be competent to supply information for the said service. Resultantly the dispute only pertains to IAS, IPS, HCS and HPS officers both serving and retired of the State of Haryana. The information thus sought was regarding action taken against them and whether any benefit had been withheld like increments, promotion, extension of service, reinstatement etc. despite registration of cases. The information has also been asked to provide the names and designations of such officers who granted service benefits to the said officers against whom the cases had been registered and in spite of which had been granted service benefits.

Respondent no.2-SPIO rejected the application (Annexure P/1) for supply of information vide order dated 20.11.2013 (Annexure P/2) on

the ground that the same were qualified to be personal information as defined in Clause (j) of Section 8(1) of the Act. The performance of an employee/officer being primarily a matter between the employee and the employer was held to be personal information and the disclosure of which had no relationship to any public activity or public interest. Finding was further recorded that disclosure of such information would cause unwarranted invasion of privacy of the individual.

Dissatisfied with the said order, an appeal was filed before respondent no.3-First Appellate Authority under the Act who also reiterated the said order while placing reliance upon the judgment of the Apex Court in **Girish Ramchandra Deshpande's case** (supra).

Thereafter second appeal was filed under Section 19(3) of the Act which as noticed above upheld the orders of the authorities below by coming to the conclusion that information had rightly been denied and that the show cause notices and orders of censure/punishment etc. are qualified to be personal information. It is this finding which is subject matter of challenge in the present writ petition.

Counsel for the petitioner has vehemently submitted that the right of citizen to know about the information of the corruption cases pending against public servants cannot be held to be personal information, the disclosure of which can be kept back. It is accordingly submitted that the respondent-Commission has erred while passing the said order while placing reliance upon the judgment of the Apex Court in **Girish Ramchandra Deshpande's case** (supra).

Counsel for the State on the other hand defended the said order

and submitted that the petitioner was not entitled for the said information since it was a personal information and it was not necessary for him to be privy to the same and the information sought pertains between the employee and employer and there was no public interest involved.

This Court is of the opinion that reliance upon the judgment of the Apex Court in **Girish Ramchandra Deshpande's case** (supra) in the facts and circumstances of the case was not justified. A perusal of the said judgment would go on to show that information sought was pertaining to personal matter of the service career and also details of assets and liabilities of the respondent which was sought under the Act. Resultantly, the Apex Court after examining Section 8(1)(j) of the Act came to the conclusion that the gifts which were accepted by the third respondent, his family members, friends and relatives which were found mention in the Income Tax Returns would be personal information which could be denied under the above said provisions. It was further held that copies of the memos, show cause notices and censure/punishment and details of the investments, lending and borrowing from Banks and other financial institutions could not be given to the applicant since it would amount to unwarranted invasion of privacy of the individual. Resultantly, the order of the Central Information Commissioner was upheld and the writ petition was dismissed. Relevant portion of the judgment reads as under:-

12. The petitioner herein sought for copies of all memos, show cause notices and censure/punishment awarded to the third respondent from his employer and also details viz. movable and immovable properties and also the details of his investments, lending and borrowing from Banks and other financial institutions. Further, he has also sought for the details of gifts stated to have accepted by

the third respondent, his family members and friends and relatives at the marriage of his son. The information mostly sought for finds a place in the income tax returns of the third respondent. The question that has come up for consideration is whether the above-mentioned information sought for qualifies to be “personal information” as defined in clause (j) of [Section 8\(1\)](#) of the RTI Act.

13. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in clause (j) of [Section 8\(1\)](#) of the RTI Act. The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression “personal information”, the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

14. The details disclosed by a person in his income tax returns are “personal information” which stand exempted from disclosure under clause (j) of [Section 8\(1\)](#) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information.

15. The petitioner in the instant case has not made a bona fide public interest in seeking information, the disclosure of such information would cause unwarranted invasion of privacy of the individual under [Section 8\(1\)\(j\)](#) of the RTI Act.

16. We are, therefore, of the view that the petitioner has not succeeded in establishing that the information sought for is for the

larger public interest. That being the fact, we are not inclined to entertain this special leave petition. Hence, the same is dismissed.”

Section 8(1) (j) of the Act reads is reproduced as under:-

“8. Exemption from disclosure of information.- (1)

Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-

xxx

xxx

xxx

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.

Provided that the information which cannot be denied to the parliament or a State Legislature shall not be denied to any person.”

In the present case as noticed from the application, no personal information as such is being sought for against any one officer. General detail of the corruption cases pending against the serving and retired public servants and as to whether in spite of registration of such corruption cases, the service benefits to such officers had been given or not and which officer had passed such orders were sought for. It is thus apparent that what is being sought is the information relating to corruption and it is not the information pertaining to a particular individual as such. The respondent-Commissioner, however, in spite of noticing the fact that the appellant had raised this issue has not given any valid reason while upholding the orders of authorities below and has only given a stamp of approval to the same.

The Division Bench of this Court in **First Appellate Authority-cum-Additional Director General of Police and another Vs.**

Chief Information Commissioner, Haryana and another 2011 AIR

(Punjab) 168 while noting the purpose of the Act, held that information pertaining to corruption is a relevant document and cannot be denied. It was held that such information leads to transparent administration which is antithesis of corruption. In the said case, the information of vacancies was sought from the CID Department of Police and was denied on the ground that there was an exemption from disclosure as per notification issued by the Haryana Government under Section 24(4) of the Act. The information had not been supplied and the appeal had been dismissed by the First Appellate Authority. However, the State Information Commission had allowed the appeal and directed that information be supplied as it would lead to eradication of corruption and violations of human rights from the sensitive department of CID. The said order was upheld by the Single Judge which was subject matter of appeal before the Division Bench. The Division Bench came to the conclusion that the Act was a step-in-aid to establish the society governed by law and notification under Section 24(4) of the Act would not exempt the information which pertains to corruption since the Act itself provided that the notification could not include the allegation of corruption and human rights violations. It was observed as under:-

“13. 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**.

14. 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.

15. 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.

16. 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. The information sought may help in dispelling favoritism, nepotism or arbitrariness. Such information is necessary for establishing

administration. Therefore, we do not find any illegality in the order passed by the State Information Commissioner, Haryana and affirmed by learned Single Judge in the orders impugned in the present appeals.

Dismissed.”

Section 24 (4) of the Act is reproduced below:-

“24. Act not to apply to certain organizations:

xxx

xxx

xxx

Nothing contained in this Act shall apply to such intelligence and security organizations, being organizations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify:

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and, notwithstanding anything contained in [Section 7](#), such information shall be provided within forty-five days from the date of the receipt of request.”

Thus, the Division Bench has held that even where the State Government is empowered by issuance of notification to exempt certain organizations from the applicability of the Act yet in respect of information pertaining to allegation of corruption shall not be excluded under Sub Section (4) of Section 24 of the Act.

In the present case as noticed the petitioner seeks the information regarding the corruption and details of corruption cases pertaining to the public servants in the State of Haryana. Keeping in view the above principles laid down by the Division Bench in **First Appellate Authority-cum-Additional Director General of Police's case (supra)** and

fact that the judgment of the Apex Court in **Girish Ramchandra Deshpande's case** (supra) is not applicable in the facts and circumstance of the present case, this Court is of the opinion that order 2.4.2014 (Annexure P/6) passed the respondent-Commission requires a revisit and cannot be sustained.

Accordingly, the present writ petition is allowed. The impugned order 2.4.2014 (Annexure P/6) passed by the respondent-Commission is quashed. The respondent-Commission shall decide the second appeal afresh keeping in view the above principles laid down by the Division Bench in **First Appellate Authority-cum-Additional Director General of Police's case** (supra).

July 26, 2016
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No