

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.16136 of 2016

Decided on :17.08.2016

Ved Parkash

... Petitioner

Versus

State of Punjab & others

... Respondents

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

Present : Mr.Sham Lal Bhalla, Advocate, for the petitioner.

G.S. Sandhawalia, J. (Oral)

The petitioner seeks quashing of the order dated 02.06.2016 (Annexure P9) whereby the respondent-Commission has accepted the explanation given by the SPIO and disposed of and closed the case.

It was noted by the respondent-Commission that whatever information was available in the official record, has been supplied to the petitioner. Information connected with Point No.5, as requested, could not be supplied to the petitioner as it was not traceable in the official record. After going through the oral submission and the written reply submitted, the explanation given by the SPIO was found genuine and the show cause notice issued to him was dropped. It is pertinent to mention that on an earlier occasion, vide order dated 04.05.2016, the Commission had directed the said officer to file a status report as to what action has been taken against the official concerned in whose custody the official record was lying. The claims which have been made in the affidavit were to be accompanied by the supporting documents, as per the official record.

It is not disputed that the petitioner, vide his application dated 11.11.2011 (Annexure P1) had asked for supply of the material regarding the advertisement and the filling up of the posts, which exercise was done in December, 2001. The said information was, thus, sought almost after a

period of more than 10 years. The petitioner sought the information on the ground that he had also applied for the post of Excise & Taxation Officer and passed the said test and appeared for the interview on 07.12.2001. Resultantly, the *locus standi* of the petitioner was sought to be made out.

The petitioner was informed by the Public Information Officer that he would be allowed to see the information vide letter dated 02.01.2012 (Annexure P-2) and the photocopy of the answer sheet of any candidate could not be sent to him and could only be shown to him. If he wanted to see the answer sheet, then he would be called and granted time to see the answer sheet in the office time. The petitioner, thereafter filed an appeal before the respondent-Commission and same was disposed of vide order dated 08.05.2012 by observing that the correct information had already been sent to the complainant. He was informed on 28.04.2014 (Annexure P-7) in similar terms that he could see the record within a fixed time frame and that he would not be allowed get any photocopy of the answer sheets. Only on account of the representation sent to the higher authorities on 27.04.2015, the issue was again reopened and vide communication 02.12.2015 (Annexure P-6), under Rule 8 (1) (j) of the Right to Information Act, 2005 he was told that the information was not to be provided to him.

The petitioner, thereafter, filed a second appeal, which led to the order dated 01.03.2016 (Annexure P-8) being passed, whereby the Commission had directed to file a status report regarding the action taken on the RTI request. Resultantly, the information was supplied to the complainant and further information was also handed over, except Point

No.5, which were the certified copies of the answer-sheets supplied and objective type tests of the candidates including waiting candidates, had been asked for. Thereafter, the SPIO had filed an affidavit that the requisite information was not traceable in the office and had gone missing and he would file a status report. On account of the filing of his reply, the Commission closed the proceedings, as noticed above.

The Apex Court, in **Central Board of Secondary Education & another Vs. Aditya Bandopadhyay & others 2011 (8) SCC 497**, while dealing with similar situations, has held that the right of information, though a cherished right but cannot be used, as such, as a tool to obstruct national development and destroy the peace, tranquility and harmony amongst the citizens. It was held that 75% of the time of the staff of the public authority is spent to collect and furnish information to applicants instead of discharging their regular duties. And indiscriminate and impractical demands or directions under RTI, for disclosure of all and sundry information, would be counter-productive. Relevant observation reads as under:

“37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information, (that is information other than those enumerated in section 4(1)(b) and (c) of the Act), equal importance and emphasis are

given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of governments, etc.). Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising 'information furnishing', at the cost of their normal and regular duties."

Another factor which mitigates against the petitioner as noticed above is that the issue already stood closed by the respondent-Commission vide order dated 08.05.2012 and the petitioner had chosen not to challenge the said order. Only on account of having filed representation before various authorities ranging from the President of India to the Chief Secretary of the Government of Punjab etc. including the editors of the newspapers, the matter was reopened and he was granted opportunity to examine the record. He, however, remains unsatisfied and seeks record of a decade old selection process.

In such circumstances, the closure which has been done by the Commission, does not warrant any interference, in view of the observations of the Apex Court reproduced above. Accordingly, finding no ground to interfere, under the discretionary powers under Article 226 of the Constitution of India, the present writ petition is, hereby, dismissed.

AUGUST 17th, 2016
sailash

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No