IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 2175 of 2014
Date of decision: 28.11.2016

Mohinder Singh ....Petitioner(s)

Versus

State Information Commission, Punjab and others ...Respondent(s)

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

Present: Mr. C.S. Sharma, Advocate,
for the petitioner.

Ms. Lavanya Paul, AAG, Punjab.

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges the orders dated 19.07.2012 (Annexure P-3) and the order dated 25.09.2013 (Annexure P-8) passed in separate proceedings by the respondent no. 1-Commission whereby, the case of the petitioner seeking information was disposed of and closed at the first instance and thereafter while noticing such fact, information was again supplied on 13.08.2013.

The petitioner, who is a retired employee of the Education Department, was aggrieved against an increment granted to one Sudhir Chand Sharma who had been appointed on the post of Clerk on 03.11.1987. His grouse was that some service benefits had been given to the said employee in the form of an increment/promotions etc. and thus, he initially had filed complaint on 22.12.2011 (Annexure P-1). In the said complaint, he had pleaded that there was a difference of name in the appointment letter and in the certificate which he had given and that the Punjabi test had not

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been passed within the prescribed period for early promotion.

Subsequently on 17.01.2012 (Annexure P-2), he filed an application under the Right to Information Act, 2005 regarding the action taken against the said employee and sought information regarding the difference between the name in the appointment letter and the type test certificate etc. This apparently came to his notice from the communication dated 22.04.2010 (Annexure P-9) that one increment had been granted to the said person. On account of the inaction on his application dated 17.01.2012 (P-2), he firstly approached the respondent-Commission wherein, the defence of the respondents was that vide letter dated 12.07.2012, the complaint had been sent to the DEO (Secondary Education) for inquiry against the said person. No report had been received from the said office and the complainant had been informed vide letters dated 31.05.2012 and 19.07.2012 (Annexure P-3) accordingly. The said documents were handed over to the Commission for perusal and record. Resultantly, in view of the information which was available on record, the case was disposed of and closed on 19.07.2012 (Annexure P-3).

The petitioner thereafter wrote to the DEO on 31.05.2013 (Annexure P-6) that copy of the information as per the letter dated 12.07.2012 be given and what action had been taken on the same. On 01.08.2013 (Annexure P-5), he wrote to the respondent-Commission that he had not been supplied the information. On 13.08.2013 (Annexure P-7), the Public Information Officer and the District Education Officer supplied him the result of passing the type test by the concerned employee which is dated 07.03.1990. The said information had been conveyed to the said employee Sudhir Chand Sharma by the Director, Education Board.

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Thereafter, the second complaint was filed on the grouse that the information on the application dated 31.05.2013 (Annexure P-6) had not been supplied. Resultantly, the Commission closed the said complaint in view of the earlier order passed on 19.07.2012 (Annexure P-3) and the subsequent information which was supplied on 13.08.2013 (Annexure P-7). The same was also taken on record by the Commission. The Commission also noted that the required information was handed over to the complainant during the hearing in the Commission and accordingly, disposed of the case.

Counsel for the petitioner has submitted that the complete information has not been supplied whereas, Ms. Paul, AAG, Punjab has defended the orders of the Commission that complete information has been supplied. It is further pointed out that a fact finding inquiry was got conducted from the Registrar, Education Department on 07.11.2014 (Annexure R-1) and even in the said inquiry, the petitioner did not associate himself with inquiry proceedings. The passing of the type test has been upheld and not termed as illegal or wrong. It is further pointed out that the said employee is working as Junior Assistant in the answering respondent-department and had been appointed on a compassionate basis subject to qualifying the Punjabi type test within a period of one year from the date of his appointment. No advertisement had been got published in this behalf or roll numbers issued to such prospective candidates and, therefore, such kind of information could not be supplied to him.

Keeping in view the above and the fact that the said person had been appointed on compassionate basis and his passing of the type test has also been inquired into vide Annexure R-1, this Court feels that the matter was rightly closed as such by the respondent-Commission. The petitioner is

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only busy in digging unnecessary information at the cost of the State and, therefore, this Court does not feel that any further directions are required in the facts and circumstances of the case.

The Apex Court in ***Central Board of Secondary Education and another vs. Aditya Bandopadhyay and others, 2011 (11) SCR 1028*** has held that the right of information cannot be allowed as a tool to obstruct the national development and 75% of time in collecting and furnishing information to applicant instead of discharging their duties. The relevant portion reads thus:-

> *"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*

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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."

Accordingly, the writ petition is dismissed.

28.11.2016 (G.S. SANDHAWALIA)
shivani JUDGE

Whether reasoned/speaking Yes/No

Whether reportable Yes/No

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