

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

**CWP No.6419 of 2013(O&M)  
Date of decision: 18.11.2016**

Sham Lal Singla

....Petitioner(s)

Versus

State of Punjab & others

...Respondent(s)

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

Present: Mr.Ashok Bhardwaj, Advocate, for the petitioner.

Ms.Lavanya Paul, AAG, Punjab.

Mr.Vijay K.Jindal, Advocate, for respondent No.4.

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

Petitioner is aggrieved against the order dated 21.11.2012 (Annexure P7) whereby the respondent-Commission has closed the proceedings by resorting to the provisions of Section 7(9) of Right to Information Act, 2005 (for short, the 'Act') on the ground that the A-Rolls which had to be provided, had been lost on 19.11.2012 and a DDR in this regard had been registered at P.S. Sadar, Dhuri.

The only issue which remains to be decided in the present case is whether the respondents are liable to pay penalty under Section 20 (1) of the Act, on account of having not provided the said A-Rolls, within the prescribed period of 30 days and whether there was any reasonable cause to withhold the same. It is not disputed that vide the application dated 26.09.2011 (Annexure P1), certain information was sought from the school which is an aided school, regarding the cash books, bank statements and A-Rolls, for the 5 years. On the information not being

supplied, a complaint was filed before the respondent-Commission in which, initially, on 24.01.2012 (Annexure P3), directions were issued to supply correct, complete and duly attested information within a period of 3 weeks positively. In case of failure to supply the information, the provisions of Section 20(1)(2) of the Act, were to be invoked against the Principal and the case was adjourned for further proceedings.

Thereafter, on 30.05.2012 (Annexure P4), it was noticed that the cash book of one account was provided and directions were issued to provide the cash book of the other account as the third account was not there, reference of which had been given. Accordingly, proceedings were deferred and directions were issued on 05.09.2012 (Annexure P5) in the same terms to supply point-wise, complete and duly authenticated remaining information and also as to why the provisions of Section 20(1) (2) of the Act be not invoked for willful denial of the information. In case the information was not available, an affidavit had to be furnished by the Principal.

Eventually, on 17.10.2012 (Annexure P6), it was noticed that only copies of A-Rolls remained to be provided and the respondent-school had assured that it would be provided on the next date of hearing. Order dated 17.10.2012 reads as under:

“During the proceedings of enquiry into the complaint today, it transpired that only copies of A-Rolls remain to be provided to the complainant which the respondent assured would be provided before the next date fixed.

Adjourned to 21.11.2012.”

As noticed, the school came up with the explanation that the A-Rolls had been lost and the DDR was lodged conveniently, 2 days before the hearing on 19.11.2012, when the A-Rolls were required. Keeping in view the said fact, the respondent-Commission has closed the proceedings.

The above sequence of events would go on to show that the information was not supplied within the period prescribed, which is 30 days, which had lapsed on 25.10.2011. The petitioner was forced to approach the Commission for redressal of his grievances. In spite of assurances, proceedings were dragged for a period of over 9 months, before the Commission.

Eventually, when it came down for supply of A-Rolls, the same was denied on the ground that the same had been lost. Thus, it would be apparently clear that there had been blatant violation of the proceedings of the Act. The information has been willfully and deliberately kept back by the respondents. The respondent-Commission erred in not acting upon the notices issued under Section 20(1) of the Act, even though the school had been put to notice that it was violating the provisions of the Act.

Resultantly, this Court is of the opinion that the respondent-Prem Sabha High School, Sangrur is liable to pay maximum penalty of Rs.25,000/-, since the Act itself provides that a sum of Rs.250/- is payable for each day's lapse. Reference can also be made to the Division Bench judgment of the Himachal Pradesh High Court in Sanjay

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30, in which, it was held that if information is not supplied within the prescribed time, without reasonable cause, penalty will have to be imposed. Relevant portion of the order reads as under:

“4. It is thus clear from the reading of this order that the State Chief Information Commissioner came to the conclusion that there was at least a delay of 14 days if not more in supplying the information. Section 20 of the Act clearly lays down that in case the Commission concerned comes to the conclusion that the information has not been supplied within time without any reasonable cause or has been refused to be given for other malafide reasons, etc. then the Commission shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished. The only caveat is that the total amount of penalty should not in any event exceed ₹ 25,000/-.

5. We find no provision in the Act which empowers the Commission to either reduce or enhance this penalty. If the Commission comes to the conclusion that there are reasonable grounds for delay or that the Public Information Officer (P.I.O) concerned has satisfactorily explained the delay then no penalty can be imposed. However, once the Commission comes to the conclusion that the penalty has to be imposed then the same must be @ ₹ 250/- per day and not at any other rate at the whims and fancy of the Commission. To this extent the petitioner is absolutely right. The penalty either has to be imposed at the rate fixed or no penalty has to be imposed.

6. We, therefore, allow the writ petition and without going into the question as to what was the actual delay but accepting the finding of the Commission that the delay was 14 days, impose penalty @ of ₹ 250/- per day, which works out to ₹ 3,500/-. We allow the petition in the aforesaid terms and the penalty is enhanced from ₹ 1,500/- to ₹ 3,500/-. Respondent No.3 is directed to deposit the enhanced amount

of penalty i.e. ₹ 2000/- in the Government treasury within  
two weeks from today. No order as to costs.”

Accordingly, the present writ petition is partly allowed by  
directing the respondent-School to deposit an amount of Rs.25,000/-  
within a period of 4 weeks from today, with the Government Treasury.

18.11. 2016  
sailesh

(G.S. SANDHAWALIA)  
JUDGE

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