

CWP Nos.7790, 7812 and 8075 of 2013

[1]

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

**CWP No.7790 of 2013
Date of decision:22.04.2016**

Guljeet Singh ...Petitioner

Versus

State Information Commission and others ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. B.S.Sidhu, Advocate,
for the petitioner.

Mr. V. Ramswaroop, Addl. A.G., Punjab.

Mr. Devender Dutta, Advocate,
for respondent No.3.

Rakesh Kumar Jain, J. (Oral)

This order shall dispose of three petitions bearing CWP Nos.7790, 7812 and 8075 of 2013 as the issue involved in all the three cases is the same. However, for the sake of convenience, the facts are extracted from CWP No.7790 of 2013.

The petitioner is aggrieved against the order passed by the State Information Commissioner dated 13.02.2013 by which ₹25,000/- as penalty @ ₹250/- per day has been awarded to the complainant. The petitioner has submitted that before passing the impugned order, the State Information Commissioner did not comply with the First Proviso to Section 20(1) of the Right to Information Act, 2005 (hereinafter referred to as the "Act").

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Otherwise also, the petitioner has supplied the requisite information to the private respondent in the Court.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the impugned order suffers from illegality as it runs in conflict with the First Proviso to Section 20(1) of the Act. In order to appreciate the controversy, it would be relevant to refer to Section 20(1) of the Act, which is reproduced as under:-

“20. Penalties.-- (1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

xxx xxx xxx xxx xxx”

No doubt that the respondents have the jurisdiction to impose penalty upon the officer who had to provide information of ₹250/- per day

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but the First Proviso to Section 20(1) of the Act provides that for imposing such fiscal punishment, reasonable opportunity of hearing has to be given to the said person. It is an admitted case that the opportunity of hearing is conspicuous by its absence before imposition of penalty upon the petitioner.

In view thereof, all the three petitions are hereby allowed and the impugned order(s) therein are set aside. The matter is remanded back to the State Information Commissioner to decide the issue again after affording opportunity of hearing to the petitioner(s) in terms of the First Proviso to Section 20(1) of the Act. The parties are directed to appear before the State Information Commissioner on 30.05.2016.

April 22, 2016
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(Rakesh Kumar Jain)
Judge