

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

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CWP-8046-2013

Decided on : 03.11.2016

State Bank of India

... Petitioner

Versus

Central Information Commission and another

.. Respondents

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

Present : Mr.Kapil Kakkar, Advocate
for the petitioner.
Mr.Naresh Jain, Advocate
for respondent No.2.

G.S.Sandhawalia, J. (Oral)

Petitioner-bank challenges the order dated 28.02.2013 (Annexure P/6) passed by the respondent-Commission. Vide the said order, the respondent-Commission had directed to provide the information on points (a) and (b) of para 3 (iii) of RTI application to the respondent No.2 herein, who was the appellant in the said appeal within 30 days of the issuance of the order. The said order was passed while noticing that the petitioner-bank did not participate in the hearing.

The information which has been sought is regarding a list of cases where actual possession of the properties under the *Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002* was sought for, and whether they have been sold or not because of higher reserve price fixation etc. The information had been denied by the bank on account of fact that it relates to commercial confidence of the bank, and hence exempted under Section 8(1) (d) of the Right to Information Act, 2015 (in short 'RTI Act'). In appeal also, similar

reason had been given by the first appellate authority of the bank and also that information related to third party, and was exempted in clause 8(1) (j) of the Act. One set of information was also held to be a query as reasons have been also asked for, why there was delay upon the sale, as such of the properties and therefore, the information could not be supplied.

Counsel for the petitioner- bank has restricted its argument only to the issue of lack of proper hearing afforded to the bank while disposing of the appeal by passing the impugned order. It is pointed out that notice of the appeal was issued on 12.2.2013 (Annexure P/5) for 28.02.2013 and the same was disposed of, on the same day. It is submitted that immediately thereafter, on 04.03.2013 (Annexure P-7) and 07.03.2013 (Annexure P/8), it had been brought to the notice of the respondent-Commission that notice of hearing was only received on 28.02.2013 at 1:00 p.m., therefore, hearing could not be attended by the official of the bank and an opportunity of hearing was again sought. Resultantly, the present writ petition has been filed.

The manner in which the appeal has been decided expeditiously, is one issue, which of course, is salutary keeping in view the provisions of the Act, as such that information should be provided at the earliest. But the fact remains that adequate opportunity of hearing should be granted to the other side, for at least putting up its case, so that the matter could be decided in a proper prospective. As noticed, information had been denied on various counts and in the absence of the petitioner-bank not participating in the hearing, the appeal has been

disposed of, to its detriment without dealing with the contentions which had been noted by the authorities below while declining the information. *Justice must not only be done, but it must also be seen to be done* and justice hurried means justice buried, are old sayings which have to be kept in mind.

In these circumstances, this court is of the opinion that petitioner is a bank, and had only been put to notice on 12.02.2013 for 28.02.2013. Summons were received on the same date and it would not have been practically possible for it to prepare its defence, and appear on the same day, as has been notified in the summons/notice of hearing. In such circumstances, it would be appropriate, if the respondent-Commission decides the appeal after allowing the petitioner bank-to participate in the hearing.

Resultantly, the impugned order dated 28.02.2013 (Annexure P/6) is set aside. The appeal is remanded to be decided afresh by the respondent-Commission.

Anything stated here-in-above, only is for the purpose of deciding the writ petition, and not on the merits of the case.

[G.S.Sandhawalia]
Judge

03.11.2016

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