

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

Civil Writ Petition No.9344 of 2013

Date of decision: 25.7.2016

Chander Kanta

...Petitioner

Versus

State Information Commission, Punjab and another

...Respondents

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

Present: Mr. Sarwinder Goyal, Advocate for the petitioner.

Ms. Lavanya Paul, Assistant Advocate General, Punjab

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges order dated 13.9.2012 (Annexure P/7) passed by the State Information Commission, Punjab whereby her appeal has been disposed of.

A perusal of the said order would go on to show that information available with the respondent department had been provided to the petitioner. As regards remaining information an affidavit has been filed that no such information was available on record and it was directed that therefore, no further action is required.

Counsel for the petitioner has vehemently submitted that respondent no.3 is under obligation to provide information which was asked for and therefore, provisions of Section 20(1) of the Right to Information Act, 2005 (hereinafter referred to as "the Act") should have been invoked by the Commission and penalty should have been imposed upon respondents no.2 to 5.

A perusal of application dated 17.2.2011 (Annexure P/1) would

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Advocate
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Punjab and Haryana High Court,
Chandigarh

go on to show that the petitioner had sought information regarding selection process of the year 2001 pertaining to an advertisement no.1/1. Counsel for the petitioner has restricted his relief to the information sought under Clause 5(a)(iv) of application (Annexure P/1) regarding her merit details pertaining to the said advertisement.

It is not disputed that the applications for the said recruitment process were called for upto 19.7.2001. The information was thus apparently sought after a decade. Initially the matter was remanded by respondent no.1-Commission vide order dated 23.11.2011 (Annexure P/3) to the First Appellate Authority to decide the issue. The petitioner had not put in appearance and an unauthorized person had put in appearance. In spite of that the First Appellate Authority vide order dated 27.3.2012 (Annexure P/4) had decided the issue and noticed that information pertaining to 5 times of number of candidates for the total posts who were called for interview had been sent to the petitioner. The petitioner's name did not figure in the list of the candidates who were called for interview and therefore, information could not be supplied to the petitioner.

Resultantly, second appeal was filed before respondent No.1-Commission which has taken into account the affidavit which had been filed by respondent-department regarding non availability of the record pertaining to the selection process of a decade earlier. A perusal of Section 20(1) of the Act would go on to show that there has to be malafide intention to deny the requested information for imposing penalty which could be levied by the Commission upon the SPIO concerned. It is not disputed that neither the application seeking information has been refused nor any wrong or misleading information has been given nor any obstruction in any manner

in furnishing the information has been made. In the present case, the application for seeking information with regard to recruitment process was filed after a decade. In such circumstances, affidavit which was filed before respondent no.1-Commission that record was not available, in the opinion of this Court, would be sufficient explanation for non supply of requisite information.

Counsel for the petitioner submits that her right of appointment has been jeopardized as such and therefore, it was necessary that the record pertaining to selection process be supplied.

As noticed above, the information was sought after a period of decade. The petitioner's right for appointment could not be agitated by her at this belated stage.

The Apex Court in '***Central Board of Secondary Education & another Vs. Aditya Bandopadhyay & Ors'*** 2011 (8) SCC 497 has held that the right to information though was a cherished right, but the provision of the Act could not be used for supply of information, which was indiscriminate and impractical. The functioning of the executive liable to be paralysed on account of the non-productive work of collecting and furnishing information, instead of authorities discharging their regular duties for preparing the voluminous information was noticed. The relevant paragraph 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.”

Keeping in view the above facts and circumstances, this Court feels that it is not a fit case where the extraordinary jurisdiction under Article 226 of the Constitution of India is liable to be exercised.

Accordingly, the present writ petition is dismissed.

July 25, 2016
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No