

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

**CWP No.9237 of 2014
Decided on :25.07.2016**

Dr. Renu Gupta

... Petitioner

Versus

State Information Commission, Haryana and others

... Respondents

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

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

Mr. Gaurav Jindal, Addl. AG, Haryana.

G.S. Sandhawalia, J. (Oral)

The petitioner challenges the order dated 26.03.2014 (Annexure P-7) passed by respondent No.1-Commission, whereby the second appeal has been disposed of by coming to the conclusion that the permissible, available and existing information has been supplied to the appellant.

The petitioner sought information pertaining to the Advertisement No.1/2012 published on 07.06.2012 for the post of PGT-HES-II (Group B Services), Category No.13 for the subject of Political Science, vide application dated 19.08.2013 (Annexure P-1). The SPIO of the Haryana School Teachers Selection Board supplied the information on 05.09.2013 (Annexure P-2) against the 9 categories for which information was sought. The petitioner not being satisfied prior to that had filed an appeal dated 04.09.2013 (Annexure P-3) before the First Appellate Authority. Thereafter, the respondent-Commission was approached. The information which is sought and what was supplied (Annexure P-5) read as under:-

Questions	Answer
1. In Political Science (Cat. No.13) please provide me the list of persons who have been selected against the said posts of advertisement.	The information is available on the Board website i.e. www.hstsb.gov.in .
2. Please provide me the particulars of the persons who have been selected against the said posts of above advertisement. The particular must include the name, address of the selected persons, roll number. I wish to say that I need documents available in board which contain information regarding the names, address of the selected persons with roll number.	-do-
3. Please provide me the details of the criteria adopted for selection to the above mentioned posts.	Selection criteria is available on the Board website i.e. www.hstsb.gov.in .
4. Provide me the detailed score card adopted for selection to the above mentioned posts.	-do-
5. Please provide me the certified copy of the criteria followed by the board for awarding scores for academics record for the above mentioned posts.	Selection criteria is available on the Board website i.e. www.hstsb.gov.in . However, certified copy is enclosed.
6. Please provide me the number of application received for the above mentioned posts against each category of candidates.	Approximately 4550 applications in PGT Political Science were received out of which 1544 candidates were short listed.
7. Please provide me the certified copy of the application forms of the selected candidates against above mentioned advertisement and posts.	The application forms of all the selected candidates have been sent to the Director Secondary Education, Panchkula, Haryana. Hence you are advised to contact the said office in this regard.
8. Please provide me the certified copy of the scores (as per criteria adopted by board) awarded to each of the candidate for above mentioned post during the course of selection. The scores must include those awarded for academics, extra-curricular activity, interview and other attributes. If any of the information is not available, specify it clearly in your reply.	In view of the judgment dated 09.08.2011 of the Hon'ble Supreme Court in Civil Appeal No.6454 of 2011 Central Board of Secondary Education & Ors. Vs. Aditya Bando Padhyay & Ors this information being in voluminous cannot be supplied.
9. Please supply me the certified copy of academic certificates, experience certificates and other documents one Ms. Savita R/o 1234, Sector 13, Hisar who had applied for the post for PGT Hindi.	The desired information cannot be supplied being related to the third party. However, Roll No. of the candidate Ms. Savita has not been mentioned.

Counsel for the petitioner candidly submits that he has no dispute regarding information sought at Sr. No. 1 and 6.

A perusal of the impugned order would go on to show that the petitioner husband had been contacted and he had also dropped the information at Sr. No.9. Resultantly, the information which remained to be provided at Sr. No. 2 to 5, 7 and 8.

Regarding the information at Clause No.2, perusal of the impugned order would go on to show that a print out was taken from the website of the Board, which had given the serial number, category, address and sex of the selected candidates and information was available on the website of the Board. Thus, the petitioner can have no grouse regarding the said aspect.

Regarding the information at Clause No.3 to 5, perusal of the Para No.7 of the impugned order would go on to show that the SPIO had provided a certified copy of the criteria adopted by the Haryana School Teacher Selection Board. The representative of the petitioner had confirmed the receipt of the certified copy of the selection criteria. Therefore, the petitioner cannot contend that information has not been supplied.

Regarding Clause No.8, whereby the certified copies of the scores of the candidates was to be provided, the respondent-Commission has come to a valid conclusion that record is voluminous and cannot be supplied and reliance was rightly placed upon the judgment of the Apex Court passed in '**Central Board of Secondary Education & another Vs.**

Aditya Bandopadhyay & Ors' 2011 (8) SCC 497. In the said case the Apex Court was examining the demand of issue of revaluation of answer sheets of the appellant-Board. It has been, accordingly, 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."

In such circumstances, the right of inspection which has been granted regarding the information sought under Clause-8 was given to the petitioner's husband, who had refused to inspect the record, as it would mean inspecting the record of 1544 short listed candidates.

Regarding the information at Clause No.7 providing certified copies of the application forms of the selected candidates against the advertisement and number of posts, the respondent-Commission has noticed that it was mandatory to transfer the application under Section 6 (3) to the SPIO o/o Director Secondary Education, but declined to do so at this stage. By holding that there was a lapse on the part of the SPIO, but on account of lack of any malafide intention, no action was warranted, at that stage. The issue of penalty thus was to be decided if it was found that there was any malafide intention.

However, appropriate directions have not been issued by the respondent-Commission for transfer and for directions to the SPIO,

Director Secondary Education.

Section 6 (3) of the Right to Information Act, 2005 reads as under:-

“(3) Where an application is made to a public authority requesting for an information,—

(i) which is held by another public authority; or

(ii) the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made. shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.”

Keeping in view of the above statutory provision and the fact that the Commission itself had also noticed the fact, but refused to transfer the application only on account of the fact that it was not appropriate at that stage is not tenable. Once the record mentioned at Clause-6 had been sent to the Director Secondary Education, the application qua that portion could have been sent to that office for further action, as provided under the statute and which was wrongly not done.

Resultantly, the said order cannot be justified regarding Clause No.7. Accordingly, the same is set aside. Respondent No.2 shall transfer the application of the petitioner regarding information sought under Clause No.7 to the Director Secondary Education within a period of five days from the receipt of the certified copy of this order. Thereafter, the said official shall decide the application of the petitioner

pertaining to Clause No.7 and take necessary action under the provisions of the Act and provide the information.

With the abovesaid observations, the present writ petition is partly allowed.

JULY 25, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No