

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

CWP 11788 of 2015

Date of Decision: May 9, 2017

Punjab and Haryana High Court through its Registrar General and others

.....Petitioners

Vs.

State Information Commission, Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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**Present:- Mr.Sanjiv Sharma, Sr. Advocate with
Mr. N.K. Joshi, advocate for the petitioners.**

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M.M.S. BEDI, J. (ORAL)

Punjab and Haryana High Court through its Registrar and the Public Information Officer for the institution has invoked the writ jurisdiction of this Court to challenge the validity of the order dated April 7, 2015 (annexure P-12) passed by State Information Commission, Punjab, Chandigarh, directing the petitioners to afford respondent No.2 Sh.Jiwan Garg, an opportunity for inspection of the records relevant to the information sought by him under Sr. Nos. 1 to 7 of his Right to Information application dated April 2, 2013, annexure P-1 and thereafter to decide whether or not to provide copies of the documents identified by him during such inspection as per the provisions of the Right to Information Act, for short 'the Act', within

a period of 30 days by passing a well-reasoned speaking order failing which the Information Officer would be liable to penal provisions of the Act with giving liberty to him to approach the Commission within a period of one month for revival of the second appeal.

Brief facts which are relevant for the decision of the present case are that a news item appeared in Hindustan Times on June 4, 2009 in context to the allegations of manipulations in the Registry of the High Court. On the basis of the said news item, respondent No.2 sought information under the Act under 8 heads besides seeking inspection of the records. The information sought by the applicant – respondent No.2 reads as follows:-

- “1. Kindly provide the inspection of all the records, complaints and investigation reports and CD’s etc. etc. which were handed over on 29.9.2008 by then Punjab Chief Secretary Ramesh Inder Singh to then Chief Justice Tirath Singh Thakur in a sealed cover as is reported by news-paper Hindustan Times in its news-paper dated 4.6.2009. Copies of some of the relevant news paper cutting/s clippings of registry-scam unearthed/ reported/ published by Hindustan Times on 4.6.2009 for the information, ready-reference and records of Ld. PIO to provide the desired information are annexed herewith this application as page Nos. 5 to 8.*
- 2. Kindly provide the inspection of all the records, complaints and investigation reports, action-taken against the defaulting officers/ judges (including the steps taken to improve the working of this Hon’ble Court after getting exposed this scam) maintained by the Hon’ble Punjab and Haryana High Court in*

regards to the above scam unearthed/ reported/ published by the Hindustan Times on 4.6.2009 in regards to manipulating the registry of this Hon'ble High Court in many ways including fixing of cases before a particular justice/ bench for consideration as is reported in the Hindustan Times on 4.6.2009. Copies of some of the relevant news paper cutting/s clippings of scam unearthed/ reported/ published by Hindustan Times on 4.6.2009 for the information, ready-reference and records of Ld. PIO to provide the desired information are annexed herewith this application as page nos. 5 to 8.

- 3. Kindly provide the inspection of all the records, complaints and investigation reports action taken against the defaulting officers/ judges (including the steps taken to improve the working of this Hon'ble Court after getting exposed this scam) maintained by the Hon'ble Punjab and Haryana High Court in regards to the inhouse probe launched/ initiated by Sh.Arun B. Saharya (then Hon'ble Chief Justice of this High Court) in 2002 for taking steps of stripping three judges/ justice Amarbir Singh Gill, Justice M.L. Singhal and Justice Mehtab Singh Gill, when Vigilance Bureau probed the scandal as is reported/ published by Hindustan Times on 5.6.2009. Copy of relevant news paper cuttings/ clippings of scam unearthed/ reported/ published by Hindustan Times on 5.6.2009 for the information, ready-reference and records of Ld. PIO to provide the desired information are annexed herewith this application as page no 8.*

**IN REGARDS TO COMPLAINTS RECEIVED
AGAINST THE REGISTRY- OFFICERS:-**

4. *Kindly intimate the applicant about the brief particulars of complaints ever been received from the advocates, litigants, litigants-appearing-in-person, general-public during the periods from 1.1.2008 to 31.3.2013/ (i.e. till-providing the information) against the registry-officers, other officers/ and staff of this Hon'ble Court in regards to registering the filings-wrongly, raising of unnecessary- objections, doing favours by registering the defective-filings of certain senior-advocates/ other-advocates/ litigants-appearing-in-person and/ or raising the unnecessary- objections upon the filings of certain senior-advocates/ other-advocates/ litigants-appearing-in-person etc. etc.*
5. *Kindly intimate the applicant about the brief particulars of complaints ever been received from the advocates, litigants, litigants- appearing-in-person, general-public during the periods from 1.1.2008 to 31.3.2013/ (i.e. till- providing the information) against the registry-officers other officers and staff of this Hon'ble Court in regards to listing the cases of particular-advocates/ parties before a particular Hon'ble Bench/ Justice (as is reported in the above said scam also).*

IN REGARDS TO COMPLAINTS RECEIVED AGAINST COURT-READER/ STENOS:-

6. *Kindly intimate the applicant about the brief particulars of complaints along with the outcomes/ results of respective complaints in brief; which have ever been received from the advocates, litigants, litigants-appearing-in-person, general-public during the periods from 1.1.2008 to 31.3.2013/ (i.e. till providing the information) against the court-readers,*

court-stenos, other officers and staff of this Hon'ble Court in regard of marking of advocates- presence in court-orders illegally, when the respective advocate's Vakalatnama/ power of attorney is not on the records of this Hon'ble Court and the advocate has appearing illegally on behalf of particular-litigant; even the advocate never holds any Vakalatnama/ power of attorney from that particular-litigant in his favour (as the presence is marked on 9.3.2010 by Sh. Ashish (concerned steno) without first getting filed any Vakalatnama/ power of attorney from advocate Sh. Vineet Soni for appearing on behalf of deceased respondent and without first getting filed any Vakalatnama/ power-of attorney from advocate Ms. Anjali for appearing on behalf of appellant Municipal Committee Sunam in RSA No. 2594 of 1987 on 9.3.2010 (titled as Municipal Committee Sunam Vs. Om Parkash and another).

7. *Kindly intimate the applicant about the brief particulars of complaints along with the outcomes/ results of respective complaints in brief; which have ever been received from the advocates, litigants, litigants appearing in person, general public during the periods from 1.1.2008 to 31.3.2013 / (i.e. till providing the information) against the court readers, court stenos, other officers and staff of this Hon'ble Court in regards to not-marking the presence of litigants in person/ advocates in court orders illegally, whereas the concerned litigants-in-person/ advocate has duly submitted his presence- slip (containing Serial number of cause-list, case-number and other requisite- particulars of case along with the name of appearing litigants-in-person/ advocates. Because*

the presence of applicant itself not marked by court-readers/ stenos many times, whereas the applicant being litigants-in-person himself has submitted his presence –slip (containing serial number of cause list, case number and other requisite-particulars of case along with the name of applicant appearing litigants-in-person) immediately after completion of respective hearings.

IN REGARDS TO USING RTI-APPICANTS AS TWO WAY COMMUNICATION TO IMPROVE COURT WORKINGS:-

8. *Kindly intimate the applicant about the constitution of some committee/ group to use/ consider/ review the contents of RTI applicants for receiving/ picking up the requisite- information from general public received through RTI-Applicants to improve court-workings (if any is constituted). Otherwise intimate the applicant that no such committee/ group is constituted to use/ consider/ review the contents of RTI applications.*

Because the applicant feels that according to the quotes of Mrs. Rupan Deol Bajaj (Hon'ble Information Commissioner) RTI- applications being two way communication-source; to give information to general public as well as to receive very important-information from general pubic through RTI applications; this Hon'ble High Court must have constituted some committee/ group to use/ consider / review the contents of RTI applications to improve the working of this Hon'ble Court. Copy of respective order dated 19.6.2009 of Mrs. Rupan Deol Bajaj (Hon'ble Information Commissioner) for the ready-reference, information and records of Ld. PIO is

annexed herewith as Page Nos. 9 to 11. However, the quotes of Mrs. Rupan Deol Bajaj (Hon'ble Information commissioner) for the ready-reference, information and records of Ld. PIO also is reproduced here below:-

“The Right to Information Act has assumed the role of a two way medium, to seek information and also to give information to the authorities in the Government, by way of a wake-up call, to enable them to take concrete steps to remove existing lacunae, leading to lifetimes of litigations for citizens of the State.”

IN REGARDS TO PROVIDE THE ATETSTED COPIES IDENTIFIED UPON INSPECTION:-

9. The Ld. PIO is hereby requested; kindly direct the concerned officers and authorities O/o the Hon'ble Haryana High Court Chandigarh to provide the certified copies of desired information immediately as and when identified by the applicant (upon the inspection of relevant Rules and regulations etc. etc.) The certified copies of required documents and information will be flagged and applied on the spot by the applicant after identifying the same if any (i.e. shall be applied and flagged immediately upon the inspection of relevant records and files).

MISCELLANEOUS CONSIDERATIONS FOR PROVIDING THE DESIRED INFORMATION TO THE APPLICANT:-

B) Ld. PIO may kindly note that O/o the Hon'ble Punjab and Haryana High Court Chandigarh under their statutory obligations/ applicable laws are responsible to disclose/ provide all the above

sought information to the applicant for protecting the interests of applicant/ general public at large. But now after RTI Act, 2005 more transparency had to be followed in disclosing all the desired information to the citizens of this country. So, Ld. PIO is hereby requested to provide all the above stated desired information to the applicant for protecting the interest of applicant/ general public at large.

- C) *Despite all this, if some/ any information still cannot be provided to the applicant. Then Ld. PIO is hereby requested to intimate the applicant specifically and categorically parawise/ sub parawise the reasons for not providing the same along with the copy of relevant/ applicable Rules/ byelaws/ circulars of applicable laws as is applicable in this regards if any, for the information, ready-reference and records of the applicant and higher appellate authorities to avoid unnecessary correspondences and confusions later on in this regards during appeals with higher appellate authorities, if required to be filed.*

The applicant hereby undertake to tender/ deposit/ pay the necessary copying, inspection and other applicable charges under RTI Act, 2005 immediately after hearing from the concerned officer about the amount which the applicant had to deposit in this regards.

Therefore, Ld. PIO is hereby once again requested to provide the (Parawise/ sub-parawise) all the desired information along with inspection of all the records/ information/ documents to the applicant under RTI Act 2005 as is sought above

in the interest of justice and oblige. So that these type of mistakes not occurred in future at the end of applicant.”

The newspaper report referred to the words of Mr. Ramesh Inder Singh, the then Chief Secretary, Punjab personally delivering some reports in sealed cover to the then Chief Justice of Punjab and Haryana High Court. The application of respondent No.2 was disposed of by Public Information Officer of Punjab and Haryana High Court, denying the information sought in paras 1 to 3 of the application on the ground that information could not be supplied on mere newspaper reports and further more such information, assuming it to be available, could not be disclosed as larger issues were pending before the Supreme Court in case **Central Public Information Officer, Supreme Court of India and another Vs. Subash Chander Aggarwal**, (Civil Appeal No. 10044 of 2010). Regarding information under paragraphs 4 to 7, the information was denied keeping in view the provisions of Section 7 (9) and Section 8 (1) (j) of the Act. Respondent No.2 was not satisfied with the response dated May 4, 2013. He preferred an appeal before the Appellate Authority i.e. petitioner No.3 on June 9, 2013, complaining that the response received by him from petitioner No.2 was delayed by 4 days and that there was no reason for denial of the information to him. On consideration of the appeal, the Appellate Authority – petitioner No.3 dismissed the same and passed an order dated June 29, 2013. The Appellate Authority – petitioner No.3 held that information sought for by respondent No.2 was based on news item and it was not only difficult but also impossible for the Public Information Officer to supply any

information on the basis of same. The order passed by Public Information Officer pertaining to points 1 to 3 and 4 to 7 was upheld considering the voluminous record of the petitioners and keeping in view the fact that it was not possible for the staff to sort out such information at the cost of their normal and regular duties which were time bound in nature.

Respondent No.2 meanwhile had moved an application dated July 23, 2013 requesting for the inspection of several record pertaining to the diary and receipt register maintained by petitioner No.1 for the period from September 25, 2008 to September 30, 2008 under which the reports/ documents had been handed over to the then Hon'ble Chief Justice by the then Chief Secretary, Mr. Ramesh Inder Singh. Similar application for inspection of diary/ receipt registers maintained for the period from May 1, 2008 to September 30, 2008 and other extended period under which all reports of the Punjab Vigilance Bureau were handed over to the then Chief Justice by the then Advocate General, Punjab was also made. In addition, inspection of diary and records pertaining to the working of the Registry, listing of cases, marking of presence was also sought. Respondent No.2 asked for the attested copies of the desired information vide his application annexure P-5 dated July 23, 2013. The said application was rejected on September 23, 2013. Against the refusal of inspection, respondent No.2 preferred appeal on November 29, 2013 before petitioner No.3. The said appeal was allowed on December 16, 2013 and respondent No.2 was permitted inspection of all the diary / dispatch registers as demanded under points 2 to 6 and also certified copies of the diary / receipt registers of the period September 25, 2008 to September 30, 2008 vide order dated

December 16, 2013. Pursuant to the above said order, direction was given to respondent No.2 on December 16, 2013 to inspect the relevant record and he was permitted inspection on January 20, 2014 on which date all available diary and receipt registers maintained by petitioner No.1 High Court, were made available. However, respondent No.2 chose not to inspect the same. Accordingly certified copies of the documents could not be supplied since respondent No.2 did not identify any documents, certified copies of which could be supplied to him. Respondent No.2 after inspecting the registers maintained in the Secretariat of Chief Justice, did not express his desire for certified copies of any document. No entry relatable to points 1 to 3 could be found in any diary/ receipt or other registers. This fact was communicated to respondent No.2 through letter dated August 29, 2014 annexure P-7. Respondent No.2 filed second appeal on September 24, 2013 before the State Information Commission, Punjab,- respondent No.1 with a request that appeal be put up before the Full Bench of the State Information Commission, Punjab comprised of Mr. Ramesh Inder Singh, the then Chief Secretary, Punjab . The said appeal was listed before the said officer as Chief Information Commissioner, Punjab. Petitioners No.2 and 3 were directed to appear and file the reply. Petitioners No.2 and 3 responded to the notice dated October 29, 2013 on November 14, 2013 and submitted a report reiterating the position of information that had been requested by respondent No.2 vide reply annexure P-10.

Respondent No.1 decided the appeal vide order dated April 7, 2015 and allowed the appeal holding that respondent No.2 had merely sought inspection of records under points 1 to 3 and therefore, such

inspection should be allowed first before taking the decision as to whether or not copies of the documents are to be supplied. Regarding points 4 to 7 , a direction was given to petitioner No.2 to afford inspection of all the relevant records.

The order annexure P-12 dated April 7, 2015 has been challenged by petitioner No.1 on the ground that since respondent No.2 had been permitted inspection of the record and he, having chosen not to examine the same, respondent No.1 without taking into consideration the position of law in context to the roving and fishing inquiry based on unauthenticated newspaper reports permitted the search and recovery of unsubstantiated reports; the stand of petitioner No.1 that the said information is not available from all records that have been examined and inspected by respondent No.2 himself has not been considered and a direction has been issued in routine without even appreciating the nature of the information sought for.

Counsel for the petitioners has submitted that there is no dispute regarding the information in paras 4 to 7 as the same has already been provided to respondent No.2 and he has also inspected the record though he was not entitled to the same. A serious objection has been raised by counsel for the petitioners pertaining to the information in paras 1 to 3. It has also been submitted that respondent No.2 has already been permitted to inspect the record pertaining to information in para 1 of the application annexure P-1.

Respondent No.2 appeared in person and was heard requiring him to inform the Court as to what is the purpose of the information desired

by him so that the same could be appreciated in the light of the provisions of Section 8 of the Act and if permissible the information in paras 2 and 3 could be provided in case he had a legal right to get the information.

It was surprising that respondent No.2 instead of answering the query of the Court expressed “no confidence” in this Court and desired this Court to recuse from the hearing of the present petition. Respondent No.2 was assured that his grievance will be appreciated in unbiased manner as this Court is bound by the constitutional oath to decide the matter without bias. The right of personal opinion of respondent No.2, as per the fundamental right enshrined in Article 19 (1) (a) of the Constitution of India was respected and he was asked to say whatever he wanted, in context to the controversy in dispute. Respondent No.2 requested that as he has to level allegations against the Chief Justice, the system of working of this Court as well as the functioning of this Court, he would prefer to argue the matter in camera. As such matter was ordered to be taken up at 4.15 p.m., in camera. He preferred to submit his grievance in writing. As it was 4.45 p.m., on February 13, 2017, his writing was taken on record and the matter was adjourned to February 21, 2017. Writing of respondent No.2 reads thus:--

“Statement of Jiwan Garg- respondent No.2.

In continuation of my CM No. 1777-CWP-2017; CM-7555-CWP-2015, CM-7732-CWP-2015; CM 765-CWP-2016; CM 766-CWP-2016. This Hon’ble Court is hereby prayed that in view of the above submissions as well as after considering the true fact a unique position of case, kindly get filed/ submitted/ transferred above said Writ Petition No. CWP 11788 of 2015 matter directly before the Hon’ble Supreme Court for fair

adjudication of this matter instead of hearing and deciding the matter of CWP 11788-2015 any more by any Court/ Judges/ Benches of Hon'ble Punjab and Haryana High Court itself.

Because lawfully even the full Bench consisting of all the Judges of Punjab and Haryana High Court and inclusive of the Lordship of Hon'ble Chief Justice of Punjab and Haryana High Court) and this Hon'ble Court, and this Hon'ble Court itself, are not lawfully competent, capable, eligible, authorized and allowed to hear and decide the above said writ matter of CWP 11788-2015 neither legally nor morally.

Specifically when the matter at the first instance, is related to an serious scam of corrupt practices, adopted by certain Judges of this Hon'ble Punjab and Haryana High Court and later on the matter have just been tried to hushed up by the lordship of the Chief Justice of this Hon'ble Punjab and Haryana High Court by keeping all the scam related records with them, even without getting it recorded anywhere in the respective receipt –registers, dispatch registers and other records officially in violation of rules and regulations, prescribed in this regard. Since British rule as very well is evident from the certificate handed over by Ld. Senior Advocate Sh.Sanjeev Sharma, and Sh. S.C. Malik in the open Court on 21.7.2015 the authenticity of which has duly been challenged by the respondent No.2 vide his CM 765-CWPO-2016 dated 12.1.2016.

It is most appropriate to mention here that Ld. PIO (Sh.S.C. Malik) has duly given the counter clarification of above said certificate dated 21.7.2005 by mentioning that:

“The reports/ documents/ are available in a sealed cover in the Secretariat of Hon’ble the Chief Justice” therefore, has duly admitted that information/ inspection sought by the respondent No.2 vide para No.1 and 2 of his application is very well kept by the former the Hon’ble Chief Justice of Punjab and Haryana High Court with them even without getting it recorded anywhere in the respective receipt register, dispatch register and other records in violation of rules and regulations prescribed in this regard since British Rule. The copy of certificate dated 21.7.2015 and page No.3 of PIO’s letter No. 1799/PIO/HC dated 29.10.2015 for the kind consideration and records of this Hon’ble Court are annexed herewith.

It is relevant to clarify further that Ld. Senior Advocate just has made false statement before this Hon’ble Court that all the records has duly been provided for inspection by the respondent No.2 whereas only para No.4 to 7 related records has just been provided for inspection. And para Nos. 1 to 3 has just been kept pending for decision by the Hon’ble Court.

So, this Hon’ble Court is hereby prayed that after considering the true facts and unique position of case. Kindly get filed/ submitted/ transferred the CWP-11788/2015 matter directly before the Hon’ble Supreme Court of India. Because neither this Hon’ble Court nor the full Bench consisting of all the Judges of this Hon’ble Court are lawfully competent, capable, eligible, authorized and allowed to hear and decide the matter against their own Judges as well as when the matter is related to the former Hon’ble Two Chief Justices of Punjab and Haryana High Court.

Therefore, after considering the above said facts and prayer of the respondent No.2, kindly get file/ submitted/ transferred the writ CWP11788-2015 matter directly before the Hon'ble Supreme Court of India for adjudication of this matter instead of hearing the matter anymore by any Court/ Judges/ Benches of this Hon'ble Punjab and Haryana High Court itself.

Submitted by,

Sd/-Jiwan Garg, 13.2.2017

Respondent No.2 in person."

The act of respondent No.2 is a glaring act of commission of offence under the Contempt of Courts Act in maligning the Court by expressing his distrust in the Court. He is being vocal about the judicial system and had committed an apparent contempt of Court which is punishable as Criminal Contempt. Lest any action taken by this Court would not be considered as a vindictive action, having been passed in haste in the state of disturbed emotions, the matter was deferred.

On February 21, 2017, he made another statement to the effect that he should be permitted to leave the Court as he has already moved an application bearing CM No. 1777-CWP-2017 for hearing the matter by Supreme Court. Permission was granted to him not to appear on the next date of hearing as desired by him. Thereafter the matter was deferred for consideration on March 22, 2017 and April 7, 2017 of his claim on merits.

Section 2 (c) of the Contempt of Courts Act pertains to acts of scandalizing and lowering the authority of the Court. It is settled principle of law that attributing improper motive to a Judge is an absolute criminal contempt of Court as per the judgment in **Rajesh Kumar Singh Vs. High**

Court of Judicature of Madhya Pradesh, AIR 2007 SC 2725 but respecting the liberty of free speech and expression of respondent No.2 which he has apparently abused, maintaining the magnanimity of this Court, I had opted not to refer the matter to the Division Bench for launching prosecution for contempt of Court as such an act would tantamount to stooping low to the standards of respondent No.2 and initiating a frivolous controversy which ultimately could have been settled only by pardoning him. The Court must, therefore, harmonize constitutional values of fair criticism and the need for a fearless action and strong arm of law and control attack on Judge if the supremacy of rule of law is attacked.

Instead of being provoked by the cheap tactics of respondent No.2, who is bent upon to embarrass the Court and the system, I have opted to refuse to recuse from the case and decide the case strictly on merits otherwise it would be termed as a timid act on the part of the Court, in violation of the constitutional oath of this Court to adjudicate the matter without fear, favour or bias.

Similar opinion has been expressed by this Court in CRR No. 1171 of 2016, titled Kultar Singh Vs. State of Punjab, when a disgruntled litigant had asked this Court to recuse. This Court had formed an opinion that the litigant had committed contempt of Court but no action was taken considering the superiority and magnanimity which is required to be shown by the Courts in case of contemptuous act of disgruntled litigants.

I have carefully considered the contentions of respondent No.2 that the information sought for by him pertaining to the in-house probe initiated by the Chief Justice of this Court in year 2009 for taking steps for

stripping three Judges, when Vigilance Bureau probed the scandal reported in the Hindustan Times on June 4, 2009. In this context the law laid down by the Supreme Court in Writ Petition (Civil) No. 792 of 2014, **Additional District and Sessions Judge, X. Vs. Registrar General, High Court of Madhya Pradesh and others** and the judgment in **C. Ravi Chandran Iyer Vs. Justice A.M. Bhattacharjee & Ors.** (1995) 5 SCC 457, can be referred to wherein it has been held that in-house probe is “a confidential inquiry” for the institutional credibility under the charge of Chief Justice of India, and therefore, its affairs are to be kept out of the public domain, and the proceedings being sensitive are required to be inaccessible to third parties.

In view of the ratio of above said judgments, the information sought for by respondent No.2 under the Act is not only barred under Section 8 (1) (j) of the Act pertaining to the third party but being an information which is prohibited to be disclosed under law. Any information which is not permitted to be disclosed to the general public cannot be procured by misusing the provisions of the Act by unscrupulous mischievous and chronic complaint-maker.

In view of the said circumstances, the petition is allowed. The order dated April 7, 2015, annexure P-12 directing the petitioners to provide information or inspection is hereby set aside.

May 9, 2017
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether reportable:	Yes/No.