

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

(109)

CWP-3024-2017

Decided on: April 06, 2017.

Rajesh Kumar Sharma

.... Petitioner

Versus

The Chief Information Commissioner and others

..... Respondents

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

Present: Mr. Sanjeev Sharma, Advocate, for the petitioner.

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

Through instant writ petition, the petitioner has challenged order dated 13.10.2016, Annexure P-1, passed by the Central Information Commissioner, New Delhi claiming that prayer of the petitioner for providing complete and genuine information sought by the petitioner under the Right to Information Act, 2005 and for launching an action against the officials of Oriental Bank of Commerce, has not been considered.

I have heard learned counsel for the petitioner and the petitioner himself who is present in the Court.

Unfortunately, the petitioner has been dismissed in December, 2014 while he was working as a Senior Manager in Amritsar Branch of the Oriental Bank of Commerce. It is not disputed that the petitioner has filed more than 200 RTI applications and over 250 complaints to the authorities in the capacity as a whistle blower so as to expose the corruption/irregularities in the same Bank from which Bank he has been dismissed. His writ petition against the dismissal order, is pending.

The contents of his 13 complaints which were brought to the notice of Central Information Commissioner, New Delhi, have been referred

to in the order. It is not out of place to mention here that the Central Information Commissioner, New Delhi is a statutory body under Chapter V of Right to Information Act, 2005. The powers and functions of the Information Commissioner, have been enshrined in Section 18 of the said Act foisting a pious duty on the Central Information Commissioner to receive and inquire into a complaint submitted by any person. Section 18 of the Right to Information Act, 2005 reads as follows:

“ 18. Powers and functions of Information Commission.-

(1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission as the case may be to receive and inquire into a complaint from any person,-

(a) who has been unable to submit a request to a Central Public Information Officer, or State Public Information Officer as the case may be, either by reason that no such office has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or Senior Officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;

(b) who has been refused access to any information requested under this Act;

(c) who has not been given a response to a request for information or access to information within the time limits specified under this Act;

(d) who has been required to pay an amount of fee which he or she considers unreasonable;

(e) who believes that he or she has been given incomplete, misleading or false information under this Act; and

(f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

(2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may intimate an inquiry in respect thereof.

(3) The Central Information Commission or State Information Commission, as the case may be shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;

(b) requiring the discovery and inspection of documents'

(c) receiving evidence on affidavit;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing summons for examination of witnesses or documents; and

(f) any other matter which may be prescribed.

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament, or the State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds."

Perusal of order Annexure P-1 passed by the Central Information Commissioner, New Delhi reflects that contents of the complaint of the petitioner, have been taken into consideration in paras No. 2 to 19 of the order regarding the grievance of the petitioner for not supplying him the copies of the bills concerning the furniture provided at the residences of officers of the Bank; information regarding subsistence allowance; information regarding charges leveled against him; information regarding electrification work of the Bank; information regarding hiring of DG sets; information regarding the loan obtained by the officers of the Bank; information regarding financial irregularities committed by an officer of the Bank; information regarding procurement of water purifiers; information regarding MICR cheque processing system; information regarding complaints filed by CVC and Ministry of Finance regarding alleged frauds committed by the Bank officials and other complaints of similar nature.

The Commission has taken into consideration the grievance of the petitioner regarding pendency of his 200 RTI applications and 250 complaints. The operative part of the order passed by the Central Information Commission reads as follows:

“ The Appellant/Complainant has a grievance against the respondents in respect of his dismissal from service and is pursuing the matter in the High Court. At the same time, he has filed over 200 RTI applications. He ought to realise that the filing of multiple RTI applications cannot address his grievance regarding his dismissal. He claims that he has filed some RTI applications and over 250 complaints to the respondents as a whistle-blower to expose corruption/irregularities in the bank. While he may have indeed done so, the number of RTI applications, complaints,

acknowledged by the appellant/complainant himself in the course of the proceedings, is clearly unreasonable. We would like to recall to the appellant/complainant the following observations of the Supreme Court in Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors., which were also reproduced in our order No. CIC/SH/C/2014/000317 (plus 17 files) dated 6.7.2015:-

“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 intimation 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 public authorities prioritising 'information furnishing' at the cost of their normal and regular duties."

In so far as the disciplinary action against the appellant/complainant is concerned, we have directed the CPIO in paragraph 23 above to facilitate inspection of all the relevant records by the appellant/complainant. We are not in favour of granting any further relief to the appellant/complainant as it would only encourage his tendency to file a large number of RTI applications on same issues, which end up clogging the RTI system, without adding any value in terms of transparency and accountability. Further, it is noted that out of the eighteen cases before us, thirteen cases relate to complaints filed under Section 18 of the RTI Act. The Commission is not in a position to give a direction to the respondents to provide any information in these cases because of the following observations of the High Court of Delhi in the judgment dated 28.10.2013 in J.K. Mittal vs. CIC & Anr. [W.P.(C)) No.6755/2012]:-

:5. In view of the above referred authoritative pronouncement of the Apex Court, there can be no dispute that while considering a complaint made under Section 18 of the Act, the Commission cannot direct the concerned CPIO to provide the information which the complainant had sought from him. Such a power can only be exercised when a Second Appeal in terms of Sub-section (3) of the Section 19 is preferred before the Commissioner."

The only issue that we can consider in respect of the above complaints is whether any action is due against the CPIO under Section 20 of the RTI Act. Taking into account

the totality of the facts of this case, as brought out above, we see no ground for action against the CPIO under Section 20.

26. With the directions in paragraph 23 and the above observations, the five appeals and thirteen complaints are disposed of.”

Learned counsel for the petitioner, in context to the above said order, has submitted that 13 complaints which have been disposed of by the Central Information Commissioner, were not filed under Section 18 of the Right to Information Act, 2005 and the appeals which had been referred to in the order, are under Section 19 of the said Act.

I have considered the contentions of learned counsel for the petitioner.

Before passing the final order, it will be appropriate to refer to the objective of the Right to Information Act. This Act was incorporated to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

The object of Act is to harmonize the conflicting public interests, that is, ensuring transparency to bring in accountability and containing corruption on the one hand, and at the same time ensure that the revelation of information, in actual practice, does not harm or adversely affect other public interests which include efficient functioning of the governments, optimum use of limited fiscal resources and preservation of

confidentiality of sensitive information, on the other hand. The said objects have been taken into consideration in a judgment in *Institute of Chartered Accountants of India Vs. Shaunak H. Satya and others, AIR 2011 SCC 336.*

It is also well settled principle of law that the information which relates to the right of a third party and is having no relationship to any public activity or interest but it would cause unwarranted invasion in the privacy of the individual unless the Central Information Commission, Public Information Officer or other authorities are satisfied that the larger public interest was justified, is not required to be furnished.

Taking into consideration the objectives of the Act and role which is entrusted to the Central Information Commission, I do not find any ground to interfere in the order Annexure P-1 passed by the Central Information Commission.

I have considered the grievance of the petitioner that prejudice will be caused to the rights of the petitioner, so far as 13 complaints which have been mentioned in the order, are concerned.

It is made clear that if the petitioner has got a right of appeal under Section 19 of the said Act, his right will not be prejudiced by the order passed by the Central Information Commission, unless until the powers have been exercised under Section 19 (2) (3) of the RTI Act.

The manner in which the provisions of the Right to Information Act, are being utilized, are indicative of the fact that the right of information can be misused by a party with an objective to harass other persons without there being any public interest involved as there is no provision made in the

Right to Information Act to require a person to specify the reason and object of seeking a particular information.

It is the high time that the bona fide of an applicant should be certified in the application filed for seeking a particular information with another declaration that the supply of information is prohibited under provisions of any other particular law.

Since the scope of issuance of any direction in context to any legislation or policy is meager, no direction can be issued in this context. However, the observations have been made on the basis of the flow of unreasonable and numberless applications before the Information Officers of the public authorities curtailing the proper functioning of the department resulting in wastage of the time and money in the litigation arisen on the Right to Information Act, 2005.

The petition is dismissed.

(M.M.S. BEDI)
JUDGE

April 06, 2017
harsha

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No