

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CM No.1275-LPA of 2017
and RA-LPA No.13 of 2017
in LPA No.456 of 2017
Date of Decision: 08.05.2017

Puneet Kumar

..Applicant-appellant

versus

State Information Commission, Haryana and others ..Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Pardeep Kumar, Advocate, for the applicant-appellant.

RAMENDRA JAIN, J.

CM No.1275-LPA of 2017

This is an application under section 151, Code of Civil
Procedure, for placing on record the application under Order XLVII Rule 1,
CPC.

The same is taken on record subject to all just exceptions.
Office to tag the same at appropriate place.

CM stands disposed of.

RA-LP-13 of 2017

The instant application has been filed by the applicant-
appellant under Order XLVII Rule 1, Civil Procedure Code, seeking review
of order dated 27.3.2017 passed in Letters Patent Appeal No.456 of 2017
mainly on the following grounds:-

(i) The learned Letters Patent Bench failed to inter alia deal
with the following categorical pleadings of the appellant that

the private schools which are integral part of the public activity of imparting education and, therefore, every citizen has a right to know about the administration of private education institution.

(ii) The permission sought was not a personal information and was not wholly exempted under section 8 of the Right to information Act, 2005 (hereinafter referred to as “the RTI Act”) and the case of the appellant was governed by proviso to section 8 of the RTI Act;

(iii) The Letters Patent Bench failed to appreciate that in view of sub-section 2 of section 6 of the Act, the permission seeker is not required to give reasons to seek information;

(iv) The information sought was under the control of the public authority, i.e., the office of the Deputy District Education Officer and this was not from any angle a personal information of a private body; and

(v) The Letters Patent Bench has not dealt with the argument that as per proviso to section 8 of the RTI Act, the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

We have given our thoughtful considerations to the submissions made by the learned counsel for the applicant-appellant.

It is needless to mention here that the mixed question of law and fact not agitated before the learned Single Judge, would not arise for consideration for the first time before the Letters Patent Bench. The learned counsel for the applicant-appellant had not set up factual matrix in that

regard before the learned Single Judge. That apart, more importantly, it has been consistently held by this court as also the Apex Court in various judicial pronouncements that it is settled legal proposition that pure question of law can be raised at any time of the proceedings but a question of fact which requires investigation and inquiry and for which no factual foundation has been laid by a party before the court or the authorities below, cannot be allowed to be agitated. Therefore, the plea now raised by the learned counsel for the applicant-appellant in the review application that there are errors of law apparent on the face of the record cannot be countenanced, especially when these are disputed questions of fact, to which learned counsel for the applicant-appellant has made a futile exercise by urging that they are questions of law.

In view of the foregoing reasons recorded hereinabove, we do not see any irregularity or impropriety in the impugned judgment dated 27.3.2017 passed by the Letters Patent Bench. Consequently, the review application is dismissed with costs of ₹.20,000/- to be paid to Haryana Legal Services Authority. In view of dismissal of Letters Patent Appeal in limine, it cannot be said to be a fit case for invoking Article 134-A of the Constitution of India and the prayer is, therefore, declined.

(RAMENDRA JAIN)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

08.05.2017
VK