

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

CWP No.20869 of 2016 (O&M)

Date of decision : 12.03.2018

Yogesh Mohan Mehra

.....Petitioner

Versus

State Information Commissioner and another

...Respondents

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Bishan Dass Rana, Advocate for the petitioner.

Mr. Rajesh K. Sheoran, Addl. A. G. Haryana.

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DAYA CHAUDHARY, J. (Oral)

The prayer in the present petition is for issuance of a writ in the nature of certiorari for quashing impugned order dated 06.04.2015 (Annexure P-5) whereby a penalty of ₹15,000/- has been imposed upon the petitioner for non-appearance in person on 06.04.2015 and also order dated 22.08.2016 (Annexure P-6) passed by the State Information Commissioner, Haryana, whereby the petitioner was directed to furnish a fresh reply to appellant-respondent No.2.

Briefly, the facts of the case as made out in the present petition are that an application dated 23.06.2014 was moved by respondent No.2 under Right to Information Act, 2005 (hereinafter referred to as 'the RTI Act'), whereby he sought information from the office of petitioner. The information was supplied vide office letter dated 11.07.2014 to respondent

No.2 as per his request and availability of the documents within the period of limitation. Respondent No.2 was not satisfied with the information and he filed an appeal before the State Information Commission, Haryana. A show cause notice was issued to the petitioner. The petitioner sought time for remaining present but on 06.04.2015, he could not appear. However, the petitioner deputed his official i.e. Sub Divisional Engineer to appear before the Court of Commissioner on 06.04.2015 as he had to participate in the meeting of District Public Relation-cum-Prevention of Grievance Committee, Karnal on 06.04.2015. Sub Divisional Engineer appeared before the State Information Commission but he could not explain the inability of the petitioner to appear before the Commission. Vide order dated 06.04.2015, a penalty of ₹15,000/- was imposed upon SPIO-cum-Executive Engineer *i.e.* the petitioner by holding that he failed to provide the information well in time and said order is under challenge in the present petition.

Learned counsel for the petitioner submits that there was no fault of the petitioner as he was deputed to attend the meeting. Learned counsel for the petitioner submits that petitioner was bound to obey the order of the State Government as he had to participate in the meeting held by the Minister of P.W.D. Department on 06.04.2015 and his presence was required. There was no intention of the petitioner not to appear before the Commission. Learned counsel also submits that earlier also the petitioner appeared in person on each and every date before the Commission but without taking into consideration the circumstances, a penalty of ₹15,000/-

has been imposed. Learned counsel also submits that an e-mail message was sent to learned Commission and same has been admitted in the order but still that has not been considered. At the end, learned counsel for the petitioner submits that the penalty imposed on the petitioner is on the higher side and same be reduced.

Learned counsel appearing for the respondent No.1 submits that the impugned order is well reasoned and detailed one. Petitioner was not present on various dates and did not comply the order passed by learned Commissioner. A categoric finding has been recorded while imposing the penalty that it was a case of carelessness and, thereafter, a show cause notice was issued. Neither the reply of show cause notice was filed nor the petitioner was personally present in the Court in spite of direction. The penalty was imposed upon the petitioner in view of provisions of Section 20(1) of the RTI Act.

Heard arguments of learned counsel for the parties and have also perused the impugned order.

Facts of the case are not disputed. The case came up for hearing on 15.01.2015 and thereafter, on 26.02.2015 before the State Information Commission. A period of three weeks was given to the petitioner-SPIO to come present with the reply to show cause notice issued to him along with relevant affidavit and documents. The case was fixed for hearing on 06.04.2015 and petitioner was directed to be personally present on that date. It was also mentioned that in case he did not appear then *ex parte* decision would be taken on merits. Neither the reply was filed nor the petitioner was

present. He deputed S.D.E. without any relevant document and reply to show cause notice. The additional information as directed by the Commission on the last date of hearing was also not supplied. On 26.02.2015, proper reply was not filed. Reply was filed on four occasions but none of the reply was complete. Even he supplied unattested documents. On perusal of impugned order it is apparent that neither the proper reply was filed nor he was present. In case the petitioner could not appear on the date when he was required to attend a meeting, he could have moved an application for exemption of his personal appearance but no such application was filed. Even the required documents were not submitted by the S.D.E., which shows that the absence of the petitioner was not *bona fide*.

Finding no merits in the arguments raised by learned counsel for the petitioner and the petition being devoid of any merits, is hereby dismissed.

12.03.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No