

**C.M. NO.6065 OF 2018 &
CIVIL WRIT PETITION NO.22950 OF 2016**

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

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**C.M. NO.6065 OF 2018 &
CIVIL WRIT PETITION NO.22950 OF 2016
DATE OF DECISION: SEPTEMBER 19, 2018**

Ramesh Kumar

.....Petitioner

VERSUS

Union of India and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Mohit Jaggi, Advocate,
for the petitioner.

Mr. O. P. Dabla, Advocate,
for respondent No.1-UI.

Mr. J. S.Toor, Advocate,
for respondent Nos.2 and 3.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No.6065 of 2018

Application is allowed as prayed for subject to all just exceptions.

Civil Writ Petition No.22950 of 2016

Challenge in this writ petition is to the order dated 16.09.2016 (Annexure P-23) passed by the Central Information Commission, whereby the appeal of the petitioner has been dismissed by holding that the composite petition is devoid of merit and deserves to be dismissed in the absence of any express or enabling provisions under the Right to

Information Act, 2005 (for short, “the 2005 Act”).

It is the contention of learned counsel for the petitioner that the order passed by the Central Information Commission dated 16.09.2016 is unsustainable in the light of the fact that the provisions of the 2005 Act have not been rightly appreciated. He contends that the language of Section 20(1) of the 2005 Act deals with the penalties itself, which makes it clear that the Commission, at the time of deciding any complaint or appeal, would proceed to impose penalty in case the contingencies/situations, as have been pointed out therein, are found to be existent. He, thus, contends that the composite petition itself is a misnomer as it is the discretion of the Appellate Authority on the basis of evidence and the documents available on record to decide with regard to the penalties. He, therefore, contends that the impugned order deserves to be set-aside and the case remanded back to the Central Information Commission for fresh decision on merits.

Learned counsel for the Union of India as also respondent Nos.2 and 3 could not contradict the contention as has been raised by counsel for the petitioner.

I have also considered the submissions made by counsel for the petitioner and have also gone through the provisions of the 2005 Act and am of the considered view that the order dated 16.09.2016 as passed by the Central Information Commission (Annexure P-23) is unsustainable. Perusal of the provisions of Sections 18, 19 and 20 of the 2005 Act, when read in consonance with each other, the order, as passed by the Central Information Commission, appears to be one which has been passed on a wrong assumption that separate appeals have to be filed for the remedy as has been provided in the said provisions. The language as incorporated in these

Sections makes it amply clear that it is for the Information Commission whether Central or State to proceed and decide either a complaint or an appeal and it is during this process if the said Commission comes to the conclusion that penalty needs to be imposed for the reasons as have been pointed out in Section 20 of the 2005 Act, may impose such penalty as would be required to be imposed in the given facts and circumstances of the case.

In view of the above, the present writ petition is allowed and the order dated 16.09.2016 (Annexure P-23) is hereby set-aside. The case is remanded back to the Central Information Commission for fresh decision on merits. The parties to appear before the Central Information Commission on **14.11.2018.**

**September 19, 2018
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**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No