

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

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Civil Writ Petition No.20309 of 2018
Date of Decision: August 30th, 2018

Ombir Singh

...Petitioner

Versus

State Information Commission, Haryana, Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

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

AUGUSTINE GEORGE MASIH, J.

Challenge in this writ petition is to the order dated 28.03.2018 (Annexure P-23) passed by the State Information Commission, Haryana, whereby penalty of ₹25,000/- which was imposed upon the petitioner besides payment of ₹5,000/- each to respondents 3 to 6 as compensation, has been reiterated in compliance with the order dated 25.10.2017 (Annexure P-22) passed by this Court in CWP No.24116 of 2017, whereby the order dated 16.12.2016 passed by the State Information Commission was set aside by this Court on the plea of the petitioner that the petitioner could not appear before the Commission on the date which was fixed by the Commission for hearing of the show cause notice for imposing punishment on him, leading to the remitting of the matter to the same authority for decision afresh after affording opportunity of hearing to the parties including the petitioner.

2. It is the contention of learned counsel for the petitioner that information under the Right to Information Act, 2005 (hereinafter referred to as the 'Act') was sought by respondents 3 to 6, which was supplied to them but they being not satisfied with the same, preferred an appeal before

the Block Development and Panchayat Officer, Rai, District Sonapat, seeking further information apart from the one which was supplied by the petitioner. Despite supplying the additional information that was sought, second appeal was preferred by the private respondents, referred to above, before the State Information Commission, whereby a show cause notice was issued to the petitioner as to why penalty of ₹25,000/- be not imposed upon him, to which the petitioner was unable to respond and appear before the said authority because of unavoidable circumstances leading to the passing of the order dated 15.12.2016, whereby the petitioner, who is the Ex-Sarpanch of Village Garhi Bala, Block Rai, District Sonapat, and was the State Public Information Officer, was not only ordered to pay the maximum penalty of ₹25,000/- for delay in supplying of information to respondents 3 to 6 but was also directed to compensate them for the agony and expenditure made in public interest by the private respondents amounting to ₹5,000/- each in addition to the amount they had paid for testing of construction material, amounting to ₹62,700/-. The said order was challenged before this Court by filing CWP No.24116 of 2017, which was allowed by setting aside the impugned order and remitting the case back to the State Information Commission for a fresh decision after affording opportunity of hearing to the parties including the petitioner as it was the case of the petitioner that he has not been given an opportunity to explain his position. Respondent No.1-Commission thereafter has again passed the present impugned order dated 28.03.2018 reiterating the said order of 15.12.2016.

3. Counsel for the petitioner contends that the State Information Commission has no jurisdiction to pass an order granting

compensation to the private respondents 3 to 6. He asserts that order imposing penalty of ₹25,000/- upon the petitioner is not sustainable as the information, which was sought under the Act, was duly supplied by the petitioner and that too, well within the limitation prescribed under the Act. He, thus, contends that the impugned order cannot sustain and deserves to be set aside.

4. I have considered the submissions made by learned counsel for the petitioner and with his able assistance, have gone through the records of the case.

5. The facts as narrated above and projected by the counsel for the petitioner, even if taken to be correct, this Court while passing an order on 25.10.2017 in CWP No.24116 of 2017, wherein challenge has been posed by the petitioner to the order dated 15.12.2016 (Annexure P-21), set aside the said order primarily on the preliminary plea of the counsel for the petitioner that the petitioner could not appear before the Commission on the date fixed to the show cause notice dated 07.09.2015 because of reasons beyond his control, which plea was accepted without hearing the State Information Commission, resulting in setting aside of the order dated 15.12.2016 (Annexure P-21) passed by the State Information Commission and remitting the matter back to the same authority for decision afresh after affording opportunity of hearing to the parties including the petitioner. Thereafter the petitioner chose not to appear before the State Information Commission to explain his stand with regard to the show cause notice which was issued to him vide order dated 07.09.2015 nor could he project his case with regard to the order dated 15.12.2016. Notices were issued through speed post to the petitioner on 21.12.2017 and 16.02.2018 to

be present before the Commission to justify his position with regard to the show cause notice for appearance on 29.01.2018 and 28.03.2018 respectively. Petitioner chose not to appear before the Commission or to submit his written comments/reply to the show cause notice dated 07.09.2015, what to say of the order dated 15.12.2016 (Annexure P-21) passed by the State Information Commission. Under those circumstances, the Commission has rightly proceeded to reiterate the earlier order passed by it on 07.09.2015, whereby the petitioner had been given show cause notice for imposition of penalty and the order dated 15.12.2016, whereby compensation has been ordered to be paid by petitioner to private respondents 3 to 6.

6. The pleadings of the petitioner, in the present writ petition also, would not call for interference with the impugned order dated 28.03.2018 (Annexure P-23) passed by the State Information Commission as the petitioner has himself chosen not to explain or justify his position despite an opportunity having been given to the petitioner by this Court in its order dated 22.10.2017. Perusal of the impugned order would show that prior to the passing of the order dated 15.12.2016, the case was heard by the State Information Commission on 12 occasions, details whereby have been given in the order. The conduct of the petitioner was such that the State Information Commission was fully justified in passing the order of imposing penalty on the petitioner as the application under the Act was filed by respondents 3 to 6 on 11.12.2014 and the information finally was made available to them on 01.09.2016 which was way beyond a period of 1 year and 9 months against the stipulated period of 30 days. Further as per the order dated 15.12.2016, the SPIO-cum-BDPO in his reply had stated

that an FIR was filed on the basis of information received from respondents 3 to 6, wherein an inquiry was made and an amount of more than ₹1 lakh was recovered from the petitioner, who was the Ex-Sarpanch of Village Garhi Bala, Tehsil Rai, District Sonapat, which he had deposited in the Gram Panchayat account. This Court, therefore, does not find any justification or equity in favour of the petitioner to interfere in the order passed by the State Information Commission.

7. The plea of learned counsel for the petitioner that compensation could not have been ordered to be paid to respondents 3 to 6 cannot be accepted as in the given facts and circumstances of the case, the reasoning which has been assigned for recourse to the said purpose, is fully justified and would not call for interference in exercise of extraordinary jurisdiction of this Court.

8. In view of the above, finding no merit in the present writ petition, the same, therefore, stands dismissed.

August 30th, 2018
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No