

**IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
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CWP-27047-2018

Date of decision:22.10.2018

MAHESH INDER SHARMA AND OTHERS

...PETITIONERS

Vs.

STATE INFORMATION COMMISSION, PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

**Present: Mr. Saurabh Kaushik, Advocate,
for the petitioner.**

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners, who are Document Writers, have approached this Court by asserting that they are not covered under the provisions of the Right to Information Act, 2005 and, therefore, are not liable to supply the information to the Tehsildar/Sub-Divisional Magistrate, as has been sought by him as per an application received under the Right to Information Act, wherein not only a registered document was sought for including a register maintained by the Document Writer but also the receipt issued by him. Reliance has been placed upon the provisions of Section 8 (1) (e) of the Right to Information Act to contend that these are the fiduciary relationships within which ambit they would be covered and, therefore, would not be required to supply the said information. Counsel for the petitioners, therefore, contends that the impugned order dated 12.09.2018 (Annexure P-5) passed by the State Information Commission, Punjab is not sustainable

and deserves to be set aside.

2. A perusal of the order dated 12.09.2018 as passed by the Chief Information Commissioner, Punjab, does not indicate that the information, which is being sought from the petitioners, who are Document Writers, would be falling within the ambit of Section 8 (1) (e) of the Right to Information Act, as has been sought to be projected by the petitioners.

3. In the present case, the information, which has been sought by the Public Information Officer, O/o Tehsildar/Sub-Divisional Magistrate, is required to be supplied to the said authority for the reasons, as have been detailed in the order dated 12.09.2018 passed by the Chief Information Commissioner, Punjab, with which reasons this Court agrees as it is a statutory duty cast upon the Document Writers which they are fulfilling. As regards the fiduciary relationship is concerned, there is no such relationship between the petitioners and the third party whose documents are being sought to be registered and entries thereof made in the registers/documents maintained by them. What is required and rightly so observed by the Chief Information Commissioner in his order dated 12.09.2018 is that the petitioners are bound to supply the information as available on their records to the Public Information Officer which they maintained in their statutory duties, which, thereafter, has to be processed keeping in view the provisions of Section 8 (1) and Section 9 of the Right to Information Act by the Public Information Officer. Obviously, the third party has to be given an opportunity to file a representation/response within the specified time so that the Public Information Officer comes to a conclusion as to whether the information, which is being sought, is within the ambit of Section 8 (1) and Section 9 of the Right to Information Act. The duties, therefore, which are

cast upon the Public Information Officer, cannot be exercised by the petitioners, who are the Document Writers. They are mandated to supply the said information to the Registrar-cum-Tehsildar, who shall, thereafter, proceed to deal with the said information as per the provisions of the Right to Information Act.

4. The order dated 12.09.2018 (Annexure P-5) passed by the Chief Information Commissioner, Punjab, para Nos. 7 to 9 whereof reproduced herein below, does not call for any interference by this Court.

“7. A perusal of above noted provisions of The Punjab Document-Writers Licensing Rules, 1961 amply reveals that the Document Writers are performing a statutory function and, as per their governing rules, are under direct control and superintendence of the Registration Department. Many duties have been cast upon them with regard to the registration of the documents and it has been so provided in the Rules that they shall be inspected from time to time and they shall also be liable to maintain books of records. Therefore, they cannot take this plea in general that the provisions of the RTI Act are not applicable to them.

8. Thus the Licensing Authority/Registering Officers can call for documents/information from the concerned Document Writer and supply the same to the appellant after giving a chance to the third party to voice any objections. If there is no response from the third party and the PIO is convinced that the sought information is not in line with one of the exemptions under Section 8 (1) or Section 9 of the RTI Act, the admissible

information can be disclosed. Hence, it is concluded that the Document Writers fall in the ambit of RTI Act, 2005.

9. Accordingly, the PIO is directed to call for the information from the concerned Document Writer and supply the admissible information to the appellant. In case the document writer refuses to part with the information (except if covered under the exception clauses of the Act), then disciplinary proceedings against him be initiated in terms of Sections 15 and 16 of the “Punjab Document Writers Licensing Rules, 1961.”

5. The writ petition, therefore, stands dismissed.

October 22, 2018

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No