

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.7661 of 2018
Date of Decision:03.10.2018

Rajesh Khurana

..... Petitioner

Vs.

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Raman Goklaney, Advocate,
for the petitioner.

Mr.Sahil Sharma, DAG, Punjab.

Mr.Pardeep Kumar Sharma, complainant in-person.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner has challenged the orders dated 19.9.2017 and 23.2.2018.

In brief, the complainant Pardeep Kumar Sharma sought information from the petitioner about the stamp paper of the value of ₹3/- issued on 29.6.1992 registered at Sr. No.3052. Since the information was not supplied, therefore, the order dated 19.9.2017 was passed by the Deputy Commissioner, Ferozepur. The petitioner made an application that he has not been given any opportunity of hearing before the impugned order was passed but his application was dismissed and his stamp vendor license No.10/MA was cancelled.

The petitioner sought information under the Right to Information Act, 2005 [for short 'the Act'] about the period during which the stamp vendor has to retain the record and as per the information supplied, the stamp vendor has to retain the register upto 12 years as per

Chapter 11 of the Punjab Stamp Rules, 1934 [for short 'the Rules']. It is contended by the complainant Pardeep Kumar Sharma, who has been allowed to join the proceedings, and the counsel for the State of Punjab that as per Chapter 11 of the Rules, the petitioner was required to seek permission from the Treasury Officer or the officer in charge of the general record room attached to the Deputy Commissioner's office before destroying the record even after 12 years and since the petitioner has not obtained the required permission, therefore, he could not have destroyed the record after 12 years and was supposed to retain/maintain the same. It is also submitted that the act and conduct of the petitioner is not above board as he had earlier alleged that he had been searching for the old record at his house and could not trace the relevant register. It is also submitted that the petitioner, at one point of time, has alleged that the register for the year 2005-2006 is attached with the Court papers but essentially, the argument of the respondents is that the petitioner should have taken permission before destroying the record even after 12 years.

I have heard learned counsel for the parties and perused the record.

There is no dispute that the complainant had sought the information of the year 1992 in the year 2016. It is also not in dispute that the petitioner sought the information from the office of the Deputy Commissioner about the period during which he was obliged to retain the record and was duly informed that as per Chapter 11 of the Rules he was obliged to retain the record upto 12 years. It is also not disputed that the period of 12 years has since expired in the year 2004 whereas the application was filed by the complainant in the year 2016 about 12 years thereafter.

Thus the question in this case is as to whether the petitioner was required to seek permission before destroying the record?

In this regard, Chapter 11 of the Rules needs to be looked into in which Clause 1 deals with the 'books of reference, circular orders and files of importance correspondence', which cannot be destroyed and have to be preserved permanently. Clause 2 deals with the 'registers, returns and miscellaneous papers' for which various time period has been provided for the purpose of their retention and Clause 3 deals with the 'ephemeral papers' which are not being registered but related to "Stamps" whether English or vernacular which require to be preserved for one year and for the purpose of its destruction orders of the Treasurer Officer or the officer in charge of the general record room attached to the Deputy Commissioner is required. The contention of the complainant and the counsel for the State in this regard is totally misconceived that the petitioner has to take permission even for destroying the registers which are required to be maintained for 12 years as contained in Clause 2 of Chapter 11 because all the three Clauses of Chapter 11 are independent and cannot be read together. The question of permission for destruction is only related to the documents contained in Clause 3 of Chapter 11 which is not the case before this Court.

Thus I am of the considered opinion that the impugned orders are patently illegal and therefore, the present petition is hereby allowed and the impugned orders dated 19.9.2017 and 23.2.2018 are set aside. No costs.

03.10.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*