

**IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
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CWP-1041-2019

Date of decision: 16.01.2019

Sanjeev Joshi

...PETITIONER

VS.

State Information Commission

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Shyam Singh Chhokar, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J.(ORAL)

Present is a writ petition challenging the order dated 14.09.2018 (Annexure P-16) passed by the State Information Commission under Section 20 (2) of the Right to Information Act, 2005 recommending initiation of disciplinary proceedings against the petitioner.

It is the contention of the learned counsel for the petitioner that in pursuance to the application under the Right to Information Act submitted by Sh. Sultan Singh, which was received by the petitioner who was the SPIO on 12.07.2016, reply was submitted by the petitioner within a period of one week i.e. 19.07.2016. The applicant-Sultan Singh was not satisfied with the said information supplied and filed a first appeal. The first appeal was disposed of by the Appellate Authority, according to which, the information, which had been supplied to the said applicant, was again

supplied to him. The applicant-Sultan Singh still being not satisfied preferred a second appeal before the State Information Commission, which was disposed of vide order dated 31.05.2017 (Annexure P-14) whereby further directions were issued to the petitioner to supply information within a period of one month. Since the said information was not supplied within the stipulated period nor was the compliance report submitted, the State Information Commission further proceeded against the petitioner and pass an order dated 14.09.2018 (Annexure P-16) being not satisfied with the explanation submitted by him with regard to non-compliance of the order passed by the Commission on 31.05.2017 within the time stipulated. Counsel contends that the copy of the order passed by the State Information Commission was never received by the petitioner and, therefore, he was not very clear as to whether all the information was again supplied to the applicant. He contends that there was no intentional non-compliance on the part of the petitioner and, therefore, the order initiating disciplinary proceedings against the petitioner along with other officials cannot sustain and deserves to be set aside.

I have considered the submissions made by the counsel for the petitioner and with his assistance, have gone through the impugned order.

The order dated 14.09.2018 (Annexure P-16) passed under Section 20(2) of the Right to Information Act, 2005 is based upon the assumption, as has been drawn by the State Information Commission, Haryana, and only a disciplinary action has been ordered to be taken against the erring officials under the relevant service Rules. The assertion of the counsel for the petitioner that the observations of the State Information Commission finding adversely against the petitioner would be taken into

consideration by the disciplinary authority and in the disciplinary action, independent mind would not be applied by the authorities, is totally misconceived as this Court is sanguine that the intent of the State Information Commission, Haryana was to find out the truth with regard to the assertions of the petitioner and the factum and the reasons, as given by the petitioner. Had the Commission been clear on the aspect of delay being on the part of the petitioner and that too, at the personal level, there was no need to pass an order of initiating disciplinary action. The matter is, therefore, open to the disciplinary authority to enquire into the matter afresh without being influenced by the observations of the State Information Commission and to proceed against the erring officials who were responsible for the non-compliance of the order passed by the State Information Commission.

No ground for interference in the present writ petition, therefore, is made out. The writ petition is disposed of with above observations.

(AUGUSTINE GEORGE MAISH)
JUDGE

January 16, 2019

pj

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No