

LPA No. 199 of 2019 (O&M)

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

LPA No. 199 of 2019 (O&M)

Date of decision: 28.03.2019

Pardeep Kumar Sharma

... Appellant

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Raj Kumar Kakkar, Advocate
for the appellant.

ARUN PALLI, J. (ORAL)

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 03.10.2018, rendered by the learned Single Judge, vide which the orders assailed therein, dated 19.09.2017 and 23.02.2018, were set aside and the writ petition filed by respondent No.6 has since been allowed.

The facts that are required to be noticed are limited.

Respondent No.6 was issued a stamp vendor licence, pursuant to an order passed by the Collector, Ferozpur, on 12.12.1983. He had been earning his livelihood for about 34 years by stamp vending. The appellant (complainant) sought information from respondent No.6 regarding a stamp paper valuing Rs.3, issued by him on 29.06.1992, and registered at Sr. No. 3052. For the required information was not furnished, upon a

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complaint made by the appellant, the Deputy Commissioner, Ferozepur, vide order dated 19.9.2017, held that respondent No.6 was negligent, as he failed to maintain the relevant registers/records. Accordingly, the Tehsildar was asked to take action for cancelling his Stamp Vendor Licence. As the said order was passed without affording any opportunity of hearing to respondent No.6, he moved an application before the Deputy Commissioner, which was also dismissed and vide order dated 23.02.2018, his Stamp Vendor Licence No. 10/MA/Ferozepur, was cancelled. That is how, as indicated above, he approached this Court and the orders he was aggrieved by, were set aside.

We have heard learned counsel for the appellant (complainant) and perused the records.

Ex facie, the appellant (complainant) had sought information regarding a stamp paper respondent No.6 had issued on 29.06.1992. It is not disputed either that he asked for the said information 24 years later i.e. in the year 2016. Upon an information sought by respondent No.6 under the Right to Information Act, 2005 ('the Act' for short), as to the period a stamp vendor was/is required to retain or preserve his registers/records, the authorities, in response, clarified that under Chapter 11 of the Punjab Stamp Rules, 1934, a stamp vendor is obligated to retain his registers up to 12 years. Apparently, from the date of issuance of the stamp paper, i.e. 29.06.1992, a period of 12 years had expired in 2004. Whereas, the appellant moved an application seeking information in respect thereof, 12 years later in 2016.

The argument that even though a stamp vendor was required to retain his registers for a period of 12 years, but in terms of Chapter 11 of the Rules, before destroying the records even after 12 years, he was required to

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seek permission from the Treasury Officer or the Officer in-charge of the general record room attached to the Deputy Commissioner's office, and since respondent No.6 failed to obtain any such permission, his stamp vendor licence was cancelled, was also found to be erroneous and rejected by the learned Single Judge;

“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

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***for destruction is only related to the documents
contained in Clause 3 of Chapter 11 which is not the
case before this Court.”***

Ex facie, under clause 2, respondent No.6 was required to retain his registers for a period of 12 years. However, condition as regards obtaining permission from the authorities, despite lapse of 12 years' period, before destroying the said record is relevant in context of clause 3 only. Thus, no exception can be taken to the conclusion rendered by the learned Single Judge. The appeal being devoid of merit is accordingly dismissed.

**(KRISHNA MURARI)
CHIEF JUSTICE**

**(ARUN PALLI)
JUDGE**

March 28, 2019
AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: Y