

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGRH

Letters Patent Appeal No.1170 of 2019 (O&M)

Date of Decision: 26.08.2019

Aseem Takyar

..Appellant

versus

State Information Commission, Haryana and others

...Respondents

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

Present : Mr. Johan Kumar, Advocate, for the appellant.

KRISHNA MURARI, CHIEF JUSTICE

CM No. 2578-LPA of 2019

Heard. For the reasons mentioned in the application, delay of 71 days in filing the appeal is condoned. Application stands disposed of.

LPA No. 1170 of 2019

This intra-court appeal under Clause X of the Letters Patent filed by the appellant-petitioner is directed against the judgment and order dated 11.01.2019 passed by the learned Single Judge dismissing the writ petition challenging the orders passed by the State Public Information officer, Haryana Vidhan Sabha, First Appellate Authority-cum-Deputy Secretary, Haryana Vidhan Sabha Secretariat and State Public Information Officer, Haryana rejecting the application made by him for supply of certain information under the Right to Information Act, 2005.

2. The facts are that the appellant-petitioner made an application dated 17.05.2017 under the Right to Information Act, 2005, seeking information regarding attendance of each member of the Haryana Vidhan Sabha assembly during each session period w.e.f. 01.09.2014 till the date of supply of information. The State Public Information Officer, Haryana Vidhan Sabha vide order dated 28.06.2017, relying upon Rule 118 of the Rules of Procedure and Conduct of Business in Haryana Legislative Assembly read with Section 8(1)(c) of the Right to Information Act, 2005, providing for exemption from disclosure of such information rejected the application. An appeal was preferred before the Appellate Authority which was dismissed on 21.08.2017. The appellant-petitioner thereafter went in second appeal before the State Information Commission, who vide order dated 07.11.2017 remanded the matter back to the Public Authority with the recommendation to reconsider the decision and take an appropriate decision for placing the attendance record in public domain.

3. In pursuance thereof the matter was reconsidered by the Speaker of the Vidhan Sabha and on a decision taken by him the information sought for was again declined. The first appeal and the second appeal against the said orders were also dismissed.

4. Learned Single Judge finding that Rule 118 provides that custody of the records, documents and papers pertaining to the assembly or any of its committees or the Legislative Assembly Secretariat would be in the custody of the Secretary of the Assembly and nothing can be passed on or taken out from the assembly chamber and its offices without the permission of the Speaker who carries a special privilege and the Speaker

had taken a decision that neither the information asked for is liable to be supplied nor it is to be put up in public domain dismissed the petition.

5. In view of the decision taken by the Speaker, since the information itself was not available with the Public Information Officer, the same could not have been supplied to the appellant-petitioner. The information in respect of the Parliament or State legislation is exempted from disclosure under Section 8(1)(c) of the Right to Information Act which provides that the disclosure which causes a breach of privilege of Parliament or the State Legislature is exempted from disclosure.

6. In view of the above provisions, no exception can be taken to the view taken by the learned Single Judge in dismissing the writ petition. The appeal is devoid of merits and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

26.08.2019
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Whether speaking/non-speaking: Speaking
Whether reportable : Yes/No.