

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

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CIVIL WRIT PETITION NO.11467 OF 2019
DATE OF DECISION: MAY 02, 2019

Saraswati Welfare Association, Gurugram

.....Petitioner

VERSUS

Pardeep Kumar Rapria and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Harinder Pal Singh Ishar, Advocate,
for the petitioner.

Mr. Pardeep Kumar Rapria,
respondent No.1 in person.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court, challenging the order dated 22.01.2019 (Annexure P-2) passed by the State Information Commission, Haryana, asserting that on a complaint submitted by respondent No.1 to the State Information Commission, Haryana, it has proceeded to pass general directions to all the Societies registered under the Haryana Registration and Regulation of Societies Act, 2012 (hereinafter referred to as “the 2012 Act”) to implement the provisions of the Right to Information Act, 2005 (for short, “the 2005 Act”).

It is the contention of learned counsel for the petitioner that the order as has been passed by the State Information Commission dated 22.01.2019 (Annexure P-2) cannot be binding upon the petitioner-Society

as it was not a party to the said complaint. His further contention is that the State Information Commission could not have passed an order giving sweeping directions to all the societies, which are not even a party to the proceedings. His further contention is that the effect of the said order would be that any person could get information under the 2005 Act from the petitioner-Society. Prayer has, thus, been made for setting-aside the impugned order dated 22.01.2019 (Annexure P-2) qua the petitioner-Society.

I have considered the submissions made by learned counsel for the petitioner and with his assistance have gone through the impugned order as also the provisions of the 2005 Act and the 2012 Act.

It is an admitted position that the 2005 Act is applicable to the societies, which have been registered under the 2012 Act, especially in the light of the provisions of Section 83 of the 2012 Act, which reads as under:-

"(1) All documents filed by a Society with the District Registrar under the Act shall be deemed to be public documents and can be accessed by any citizen under the provisions of the Right to Information Act, 2005. To that extent, every society registered under the Act shall be deemed to be a public office for the purposes of the said Act and shall be liable to supply the requisite information against the fee prescribed by the Society, if any, for all purpose.

(2)Notwithstanding the above, information relating to all other proceedings and internal processes of the working of a Society is within its exclusive jurisdiction and accessible to the

members of such Society and the offices of the District Registrar and Registrar."

The factum that the 2005 Act is applicable, having not been disputed, direction as issued by the State Information Commission, Haryana, in the impugned order is reproduced herein as below:-

"6. In view of the above, the Commission is of the considered view that societies formed under the Haryana Registration and Regulation of Society Act, 2012 cannot escape from the responsibility of implementing the provisions of RTI Act, 2005. Therefore, the Secretary and President of the Valley Resident Welfare Society, Panchkula is directed to implement the provisions of RTI Act, 2005 by appointing of SPIO and First Appellate Authority in the society within two weeks of receipt of this order. Further, if there is no fee prescribed by the society for providing information in terms of the RTI Act, 2005, then the fee prescribed under the Haryana Right to Information Rules amended from time to time will be applicable to the society.

7. While keeping in view the facts and circumstances of the case, the Commission deems it fit to exercise the powers conferred under Section 25(5) of the RTI Act, 2005, therefore, recommends the Additional Chief Secretary to Government, Haryana, Industries Department (Public Authority) to direct all the Registrars of the Society in the State of Haryana to implement the Commission's Orders in the functioning of all societies registered under the Society's Act."

A perusal of the said direction would indicate that the State Information Commission, Haryana, has given effect to the statutory provisions and has exercised its powers well within its jurisdiction as provided under the 2005 Act. Merely because the petitioner-Society is not a party to the case, which was being dealt with by the State Information Commission, Haryana, in its order dated 22.01.2019 (Annexure P-2), this court does not find any illegality in the same as the provisions of the statute mandate compliance of the provisions of the 2005 Act. Any society, which is registered under the provisions of the 2012 Act is bound to comply with the provisions of the 2005 Act and that is what the State Information Commission has endeavoured and directed to be complied with. Since the statutory provisions have been ordered to be enforced, the societies which have been registered under the 2012 Act, cannot run away from the said responsibility, taking a technical plea that it was not a party to a particular lis.

This Court does not find any ground to interfere in the orders dated 22.01.2019 (Annexure P-2) passed by the State Information Commission, Haryana, rather mandates the State of Haryana to implement the order in letter and spirit at the earliest and in any case not beyond a period of two months from today.

Writ petition stands dismissed with the aforesaid directions.

Copy of this order be given *dasti* to counsel for the State of Haryana, Mr.Manish Dadwal, Assistant Advocate General, Haryana, who shall forward the same to the concerned Principal Secretary-Chief

Secretary, Haryana and Registrar General of Societies, Haryana, for compliance within the time stipulated.

**May 02, 2019
khurmi**

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No