

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

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Civil Writ Petition No.13619 of 2019
Date of Decision: October 31st, 2019

Haryana Public Service Commission and another

...Petitioners

Versus

State Information Commissioner, Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. H.N. Mehtani, Advocate
for the petitioners.

Respondent No.2 in person.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the order dated 01.05.2019 (Annexure P-13) passed by the State Information Commission, Haryana, whereby compensation amounting to ₹10,000/- has been awarded to respondent No.2 under Section 19 (8) (b) of the Right to Information Act, 2005, for the loss suffered by her along with harassment, unreasonable refusal within the stipulated period of 30 days while pursuing her Court cases in Punjab and Haryana High Court.

2. It is the contention of learned counsel for the petitioners that the provisions of Section 19 (8) (b) of the Right to Information Act are not attracted to the case in hand as the delay in supplying the information was neither intentional nor deliberate but has occurred because of the pendency of the case of respondent No.2 in the Punjab and Haryana High Court and supplying the said information during the pendency of the writ petition was not advisable and the said information was, therefore, not supplied because of the said reason. His further contention is that the loss which is alleged to have been suffered because of the payment of fee to the counsel cannot be

attributed to the petitioners as the litigation had occurred because of the *bona fide* opinion, which has been formed by the Commission with regard to the non-eligibility of respondent No.2 for consideration under the sports category under which she had applied for appointment to the post of Dental Surgeon. He contends that respondent No.2 has only exercised her right for which the Court has ultimately decided the litigation between the parties. The information has been supplied to private respondent No.2, which fact is not disputed. He, therefore, contends that the order dated 01.05.2019 (Annexure P-13) passed by the State Information Commission, Haryana, cannot sustain and deserves to be set aside.

3. I have considered the submissions made by learned counsel for the petitioners and with his assistance, have gone through the impugned order dated 01.05.2019 but do not find myself in agreement with the counsel for the petitioners as a whole with regard to the fact that the provisions of Section 19 (8) (b) of the Right to Information Act would not be applicable to the case in hand.

4. Section 19 (8) (b) of the Right to Information Act reads as follows:-

“19. Appeal.-(1) XXX XXX XXX
 XXX XXX XXX

(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to,—

(a) XXX XXX XXX

(b) require the public authority to compensate the complainant for any loss or other detriment suffered”

5. Perusal of the above would show that the

as the case may be, has the powers to call upon the public authority to compensate the complainant for any loss or other detriment suffered during the process of filing appeal and leading to the supply of the information under the Right to Information Act.

6. The contention of the counsel for the petitioners with regard to the factum of having suffered a loss by way of fee to the counsel for pursuing a particular litigation before the High Court may not be in itself a good ground for the grant of compensation, however, there could be no dispute that private respondent No.2 has suffered because of the non-supply of the information as she had to not only file the appeal but also the second appeal before the State Information Commission. It is there that the said information was ultimately supplied to respondent No.2.

7. The factum of there being delay of more than 100 days in supplying the information when the stipulated period is 30 days under the Right to Information Act, stands established and is not refuted by the counsel for the petitioners but the reasoning which has been assigned for said delay is the litigation pending in the High Court. This cannot in itself be a ground for not supplying the information to an applicant/complainant when there is no stay granted by this Court on supplying such information. Admittedly, there is no order passed by any Court refraining the petitioners from supplying the information under the Right to Information Act. Merely because the litigation is pending, the operation of the provisions of the Right to Information Act does not cease to operate and the authorities are bound to follow the provisions of this Act in letter and spirit, which the petitioners in the present case have failed to do so.

8. There can be no dispute that because of the delay in supplying

the information, respondent No.2 had to suffer a lot of loss and harassment at the hands of the petitioners, especially when the information has been not supplied to her within the stipulated time and at the initial stage, refused also. The justification, therefore, as provided for in the impugned order of the Commission dated 01.05.2019 (Annexure P-13) cannot be faulted with except for the observation with regard to the counsel fee incurred by respondent No.2 in pursuing of the case in the High Court of Punjab and Haryana. The pain and suffering, which respondent No.2 had to unnecessarily go through because of the non-supply of the information under the Right to Information Act as mandated under the said statute would not be said to be unjustifiably compensated by the Commission. The order as passed by the State Information Commission, which is impugned by the petitioners, is within the parameters as laid down under the Right to Information Act and falls within the mandate and purview of Section 19 (8) (b) of the Right to Information Act.

9. In view of the above, finding no merit in the present writ petition, the same stands dismissed.

October 31st, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No