

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

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Civil Writ Petition No.22358 of 2015

Date of Decision: March 6th, 2019

Dr. Jagrati Sharma

...Petitioner

Versus

State Information Commissioner, Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Petitioner in person.

Mr. Pradeep Prakash Chahar, Deputy Advocate General,
Haryana.

Mr. R.K. Choudhary, Advocate
for respondents No.4 and 5.

AUGUSTINE GEORGE MASIH, J.

This writ petition has been filed challenging the order dated 27.07.2015 (Annexure P-6) passed by the State Information Commission, Haryana, directing the State Public Information Officer-cum-Deputy Civil Surgeon, Karnal-respondent No.2 to supply the information as detailed in the order.

2. Briefly the facts are that the petitioner is a third party and is employed as a Dental Surgeon at Uchana Lake Dispensary, Karnal, of the Health Department, Haryana. She lodged FIR No.24 dated 15.01.2015 at Police Station Sadar, Karnal, under Sections 376, 420 IPC against one Dr. Vipul Gupta son of Satya Prakash Gupta-respondent No.4, who is also working as a Medical Officer and is posted at Civil Dispensary, Mewat. Charges were framed against respondent No.4 on 28.04.2015. With an intention to harass, humiliate and tarnish the image of petitioner, respondent No.4 had been filing false complaints against the petitioner and various applications under the Right to Information Act seeking her

personal information. It is in this league that respondent No.4 brought in his father Shri Satya Prakash Gupta-respondent No.5 into the picture and got filed an application under the Right to Information Act on 02.02.2015 out of vengeance and personal vendetta. The intent and purpose of this harassment is to pressurize the petitioner to enter into compromise in the criminal case or to force her to withdraw the said FIR registered against him. This application dated 02.02.2015 (Annexure P-2) addressed to the Deputy Civil Surgeon-cum-State Public Information Officer, Karnal, sought information which is absurd, irrelevant and uncalled for, which relates to the personal information of the petitioner. There is no public interest involved.

3. When no information was supplied by the Deputy Civil Surgeon-cum-State Public Information Officer, Karnal-respondent No.2 within the time stipulated nor any response was given, first appeal was preferred by respondent No.5-Shri Satya Prakash Gupta, in which comments of petitioner, were sought being third party, where written objections were filed by her on 16.03.2015. Parties were given personal hearing and thereafter an order dated 13.04.2015 (Annexure P-5) was passed by the First Appellate Authority-cum-Civil Surgeon, Karnal, dismissing the appeal and rejecting the application filed by respondent No.5 denying the information as sought, on the ground that the information which has been sought by respondent No.5 related to personal information of the petitioner and that too with an intention to mentally pressurize the petitioner.

4. Second appeal was preferred by Satya Prakash Gupta-respondent No.5 before the State Information Commission, Haryana, which after hearing the parties, proceeded to order supplying of some of the information as sought for by respondent No.5 in his application dated

02.02.2015 vide order dated 27.07.2015 (Annexure P-6) which has been challenged by the petitioner by filing the present writ petition.

5. Petitioner has appeared in person and has asserted that the information which has been sought by respondent No.5 is with a *mala fide* intention and to harass and humiliate the petitioner with a motive to pressurize her into entering a compromise with his son respondent No.4. She further contends that the information which has been sought by respondent No.5 is barred under Section 8 (1) (h) of the Right to Information Act. Assertion has also been made that it being personal information relatable to the petitioner, the same could not have been supplied to respondent No.5 as that could be against the very purpose and intent of the Act as no public interest is involved in the disclosure of the said information. She asserts that this application is totally a mischievous act on the part of respondent No.5 and, therefore, the information should not have been ordered to be supplied by the State Information Commission vide the impugned order dated 27.07.2015 (Annexure P-6).

6. I have considered the submissions of the petitioner and have gone through the pleadings and the order passed by the First Appellate Authority-respondent No.2 as also the State Information Commission but do not find myself in agreement with the contentions of the petitioner.

7. As regards the first argument which has been raised by the petitioner that the application under the Right to Information Act filed by respondent No.5 is with a *mala fide* intention with the purpose of harassing, humiliating and forcing her to enter into a compromise and has not been filed with a *bona fide* intention, the same is liable to be rejected in the light of the latest judgment of the Supreme Court in the case of *Common Cause*

Versus High Court of Allahabad and another 2018 (23) R.C.R. (Civil) 579, wherein the Supreme Court has, with reference to Section 8 of the Right to Information Act, 2005, held that no motive needs to be disclosed in view of the scheme of the Act. If that be so, the intent, purpose and motive of the applicant has no bearing upon the consideration of decision under the Right to Information Act on the said application.

8. The second plea of the petitioner that the information which has been sought under the Right to Information Act vide letter dated 02.02.2015 (Annexure P-2) is personal information of the petitioner and since she has objected to the same, the said information should not have been supplied, especially in the light of the fact that there is no public interest involved in the same and the First Appellate Authority has, therefore, rejected the application of respondent No.5 vide order dated 13.04.2015 (Annexure P-5), also cannot be accepted as the exempted information under Section 8 of the Right to Information Act has already been declined by the State Information Commission in the impugned order dated 27.07.2015 (Annexure P-6). The said order has been passed keeping in view and in the light of the judgment of the Supreme Court in *Girish Ramchandra Deshpande Versus Central Information Commissioner and others 2012 (4) R.C.R. (Civil) 559*.

9. The information which was sought by respondent No.5 in his application dated 02.02.2015 (Annexure P-2) is as follows:-

Kindly supply the certified copy of the following information as under:-

1. *Date of her appointment, place of posting during service.*
2. *Place and period of deputation, working hours, place of headquarter during deputation between 1/7/2014 to*

31/12/2014.

3. *Any type of leave availed during the period 1/7/2014 to 31/12/2014 along with the permission to leave the headquarter may be supply.*
4. *Copy of her attendance register, movement register from 1/7/2014 to 31/12/2014 may be supply.*
5. *The residential address of Karnal and receipt of house rent paid by Dr. Jagrati Sharma from 1/4/2013 to 31/1/2015 which was claimed in income tax return as Tax-Rebate/Deduction along with the copy of form-16 of said period may be supply.*
6. *Copy of the complaint finding, enquiry report between Sh. Satyavan Pharmacist and Dr. Jagrati Sharma during their posting in Lake Dispensary may be supply.*
7. *Copy of the complaint given to CMO, Narnaul or any other senior officer against Dr. Sanjay Bishnoi, SMO given by Dr. Jagrati Sharma during her posting under General Hospital, Narnaul along with finding and enquiry repot may be supply.*

In the context of the above information sought, the order which has been passed by the Commission is as follows:-

“6. The Commission heard carefully the averments of both the parties and perused the record on the case file. The submissions of the third party were noted. The citations relied upon by the appellant and the third party were perused. The Commission is guided by the decision of the Hon'ble Apex court in SLP © No.27734 of 2012 titled as *Girish Ramchandra Deshpande Vs. Central Information Commission and others*. Point-wise information sought by the appellant was discussed during hearing. Vide point 1 and 2, the appellant is seeking date of appointment and place of posting during service alongwith place and period of deputation, working hours, headquarter during deputation of the third party from 1.7.2014 to 31.12.2014 which is not personal information. This information is not personal information and

cannot be denied. Vide point 3 and 4, the appellant is seeking copies of the leave applications availed by the third party alongwith attendance register and movement register for the period from 1.7.2014 to 31.12.2014. Since the leave applications may contain some personal information, copies of the leave applications are not allowed. However, the number and type of leave, alongwith dates be furnished to the appellant. Copy of the attendance register is related to the public activity, hence, permissible and cannot be denied to the appellant. Keeping in view the criminal case in view, information sought vide point 5 is denied. However, copy of the Form-16 minus PAN Number be furnished to the appellant. Information sought vide point 6 and 7 of the RTI application is not permissible as no larger public interest has been established and exemption is upheld. No case is made out for initiating penal action under Section 20(1) of the RTI Act, 2005 against the respondent SPIO as no malafide has been established against the respondent SPIO.”

10. This Court is in full agreement with the impugned order, which has been passed and, therefore, do not find any merit in the present writ petition, which would call for any interference by this Court.

11. In view of the above, the writ petition stands dismissed.

March 6th, 2019
Puneet

AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No