

CWP-8248-2018 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-8248-2018 (O&M)

Date of Decision: 28th February, 2019

Jaiveer Singh

...Petitioner

Versus

State Information Commission, Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ajay Vijrania, Advocate,
for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.
for respondents No.1.

Ms. Manpreet Kaur, Advocate for
Mr. S.K. Mahajan, Advocate
for respondents No.2 and 3.

Mr. Sumit Sangwan, Advocate
for respondent No.4.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-11203-CWP-2018

Written statement on behalf of respondent No.4 is taken on
record, subject to all just exceptions.

Application stands disposed of.

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Petitioner has approached this Court impugning the order dated
20.03.2018 (Annexure P-5) passed by the State Information Commission,
Haryana – respondent No.1, whereby, second appeal preferred by
respondent No.4 – Anil Kumar challenging the orders passed by the State

Public Information Officer-cum-Executive Engineer, OP Division, Haryana – respondent No.3 dated 12.09.2017 (Annexure P-2) and the order dated 27.10.2017 (Annexure P3) by the First Appellate Authority-cum-Superintending Engineer, OP Circle, Dakshin Haryana Bijli Vitran Limited, Bhiwani- respondent No.2, whereby, information sought by respondent No.4 regarding traveling allowance and daily allowance as claimed by the petitioner from 01.01.2013 to 31.10.2016, was declined on the ground that the same falls within the definition of personal information and there is no public interest involved in the same have been set aside and the information as sought by respondent No.4 has been ordered to be supplied.

2. It is the contention of the learned counsel for the petitioner that the State Information Commission, Haryana – respondent No.1 has not taken into consideration the fact that traveling allowance and daily allowance, as claimed by the petitioner, relates to his personal accounts and he being a public servant, should not be exposed by supplying the information relatable to him, which is purely personal to him. He contends that apart from that, the Competent Authority has found that not only the information sought was relatable to the personal information of the petitioner but there was also no public interest involved in the same and therefore, had rightly rejected the application dated 30.08.2017 (Annexure P-1) filed by respondent No.4 seeking information under the Right to Information Act, 2005 (hereinafter referred to as 'RTI Act'). Assertion has also been made that the information as has been sought for by respondent No.4 is due to personal vendetta and grudge because the brother of the

petitioner as well as respondent No.4 were competitors as they were providing vehicles on hire to the Department for official travel and on the complaint by the firm of the brother of the petitioner, vehicles of respondent No.4 were not engaged for the purpose of hire. He, thus, contends that the application under the RTI Act having not been filed with a *bona fide* intention, the same is liable to be rejected on this ground alone and the authorities had taken into consideration the said fact and returned a finding to that effect in the order dated 04.07.2017 (Annexure P-6). He, thus, contends that the impugned order dated 20.03.2018 (Annexure P-5) passed by the State Information Commission, Haryana, cannot sustain and deserve to be set aside.

3. On the other hand, learned counsel for respondent No.4 submits that there is no personal information, which respondent No.4 had sought as the information sought by respondent No.4 is only for traveling allowance and daily allowance, which obviously is paid to an employee for performing public functions. The payment is made from the Government funds and therefore, it cannot be said that the information is personal information. He further submits that the allegations against respondent No.4 are without any basis, however, he contends that the intent and purpose for which the information has been sought under the RTI Act has no relevance with regard to supply or non-supply of the information under the RTI Act as there are specific exceptions provided for under Section 8 of the RTI Act. Reliance in this regard has been placed upon the judgment of Hon'ble Supreme Court in Common Cause Vs. High Court of Allahabad & another 2018 (2)

R.C.R. (Civil) 579. He, thus, contends that the order dated 20.03.2018 (Annexure P-5) as passed by the State Information Commission, Haryana, being in accordance with law, does not call for any interference.

4. I have considered the submissions made by the learned counsel for the parties and with their assistance have gone through the records of the case.

5. As regards the contention of the counsel for the petitioner that the information which has been sought by respondent No.4 is with a *mala fide* intention to harass the petitioner and therefore, the said information cannot be supplied to him, is without any basis in the light of the judgment passed by the Hon'ble Supreme Court in *Common Cause's* case (supra), where it has been so held that the intent and purpose as well as the motive is not required to be disclosed under the RTI Act for seeking information. Further, the exemption for supplying information, as provided under Section 8 of the Act, does not carve out this exception as nothing has been mentioned with regard to the intent and purpose of an applicant to be looked into before coming to a conclusion that such an information could be supplied or not?

6. As regards the contention of the learned counsel for the petitioner that the information which is being sought by respondent No.4 is a personal information, the same cannot be accepted as answer thereto has been aptly given by the State Information Commission, Haryana, in its order dated 20.03.2018 (Annexure P-5). Paras 7 and 8 of the said order read as follows:-

“7. TA/DA is a claim, which is made by an official who is performing public duties while moving out to his Headquarter. TA/DA as is clear and allowance given to the public servant on account of the possible expenditure, he may have to incur while being on tour for public purpose. TA/DA can never be given for private journey or private work. Any work, which is done for achieving or performing a public purpose is work done in public interest.

8. A public tour is itself a public activity because it is activity under taken to achieve a public purpose like attending meeting. Carrying out journey for removing public grievance etc. None of this purpose can be called a private purpose and thereby denied information regarding TA/DA. It is also known that the Government from time to time issues instructions that claiming false TA would be considered a big irregularity. There is therefore, an element of verification that is involved in the whole process of claiming TA/DA. In any case, the activity cannot be called a 3rd party activity because public servant performing a journey in public interest cannot claim privacy as a protection clause. None of the Court orders mentioned above points specified, TA/DA claim as personal or private information. TA/DA is

provided from, ultimately the consolidated fund of the State and this fund is created out of revenues collected from the public at large. The source of the TA/DA also therefore is a public source and there is no questions of withholding information with regard to the utilisation of funds derive from the State budget/consolidated fund.”

7. The State Information Commission, Haryana, has correctly dealt with the aspect with regard to the information sought of the traveling allowance and daily allowance claimed by an employee, is aptly and precisely elaborated and explained. In view of the same, it cannot be said that the information as sought by respondent No.4 is a personal information.

8. As regards the plea of the learned counsel for the petitioner that no public interest is involved and therefore, information should not be supplied, suffice it to say that when it has been concluded that it is not a personal information of the petitioner, which is being sought by respondent No.4, the question of supplying the same being in public interest or otherwise, does not arise as it is only in the case of information which is personal and relatable to exemption under the provisions of Section 8 of the RTI Act, that the Competent Authority would look into the aspect as to whether, it would be in the interest of public to be disclosed or not. The plea, as raised by the learned counsel for the petitioner, therefore, cannot be accepted.

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

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In the light of the dismissal of the main writ petition, no order is required to be passed in the present application for vacation of stay, as the same has been rendered infructuous.

Disposed of as such.

28th February, 2019
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

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