

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

103

Civil Writ Petition No.37017 of 2019
Date of Decision: December 19th, 2019

Vikas Beniwal

...Petitioner

Versus

SPIO-Cum-Chief Administrator, Haryana Sahari Vikas Pradhikaran,
Sector-6 C, Panchkula and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Ms. Priyanka Dalal, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 03.07.2019 (Annexure P-11) passed by the State Information Commission, Haryana-respondent No.2, whereby the penal proceedings initiated under Section 20 (1) of the Right to Information Act, 2005 (hereinafter referred to as 'RTI Act') against the SPIO-cum-Estate Officer-I, HUDA, Gurugram, were dropped.

2. It is the contention of learned counsel for the petitioner that the applicant had sought information under the RTI Act vide application dated 09.05.2017 (Annexure P-1). The said information when not supplied and denied on the ground that it was barred by Section 8 of the RTI Act being a third party information, petitioner preferred first appeal. The said appeal was allowed vide order dated 23.06.2017 (Annexure P-2) directing the SPIO-cum-Estate Officer-I, HUDA, Gurugram, to provide point wise information to the petitioner within seven days of receipt of the intimation. When the said information was not received, petitioner approached the State Information Commission, Haryana, by way of second appeal, which appeal was also allowed by the State Information Commission vide order

dated 18.09.2017 (Annexure P-3). Directions were issued to the SPIO to provide the relevant record for inspection by the petitioner on 03.10.2017 at 11:00 AM in his office as mutually agreed between the parties and furnish copies of the documents as identified by the petitioner during hearing, free of costs within seven days of receipt of list of identified documents. Liberty was also granted to the petitioner to file a rejoinder with the SPIO along with a copy to the Commission within 15 days of the receipt of the information. In pursuance to the said order passed by the State Information Commission, petitioner approached the SPIO but as per the assertions of the petitioner, the records were not made available and the information, which has been supplied indicated that qua some of the points, it is mentioned that the information is not traceable or not available or it did not pertain to the said office. In these circumstances, petitioner had filed a rejoinder before the Commission as per the permission granted. The said rejoinder was taken note of and proceedings under Section 20 (1) of the RTI Act initiated along with a complaint dated 15.03.2018 under Section 18 of the RTI Act. On reply filed by the SPIO, the Commission has dropped the proceedings, which cannot be said to be sustainable in the light of the fact that the petitioner has not been supplied the requisite information as directed by the State Information Commission. She, therefore, contends that the order dated 03.07.2019 (Annexure P-11) 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 petitioner and with her assistance, have gone through the records of the case as well as the impugned order but did not find myself in agreement

with what has been asserted by the counsel for the petitioner, rather the order as passed by the State Information Commission explains the reasons as to why the Commission has dropped the proceedings initiated against the SPIO-cum-Estate Officer, HUDA, Gurugram.

4. As regards the provisions of Section 18 of the RTI Act, the complaint which has been preferred by the petitioner, the said aspect has been dealt with in para 4 of the order explaining the scope and applicability of Section 18 in conjunction with Section 19 of the RTI Act relying upon the judgment of the Supreme Court in *Civil Appeal No.10787-10788 of 2011* tilted as *Chief Information Commissioner and another Versus State of Manipur and another decided on 12.12.2011*, wherein it has been held that the directions to provide information to the SPIO cannot be passed while considering complaint under Section 18 of the RTI Act. The State Information Commissioner has proceeded to consider the stand of the SPIO with regard to penalizing him under Section 20 (1) of the RTI Act, where again it has been mentioned that the initial application was responded to by the SPIO by observing that the information cannot be furnished to the petitioner being third party information, which was within the time of 30 days as stipulated for responding to the application under the RTI Act. On the directions issued by the Appellate Authority and the State Information Commission, action has been taken by the SPIO for complying with the order passed by the Commission, which is explained in detail therein. The factum of there being inspection or otherwise on the part of the petitioner on 03.10.2017 as mutually agreed has also found to be without any result as nothing could be found on record, which could indicate whether the petitioner has inspected the record or has even come

present for actual inspection of the record. In the absence of the said evidence, the Commission on the basis of the information, which has been supplied by the SPIO as per the direction issued by the Appellate Authority and the State Information Commission, Haryana, from time to time, has found the response to be satisfactory and, therefore, no case for penal action against the SPIO has been found out. The findings as recorded by the State Information Commission are based upon proper appreciation of the facts of the case and, therefore, do not call for any interference by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India.

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

December 19th, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No