

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
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CWP-169-2019

Date of decision: 10.01.2019

RAJINDER KUMAR

...PETITIONER

VS.

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Himanshu Rao, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J.(ORAL)

Petitioner has approached this Court challenging the order dated 16.03.2018 (Annexure P-5) passed by the Joint Director, Vigilance Bureau, Head Quarters, Punjab, whereby the information sought by the petitioner has been denied on the basis of Section 8 (1) (h) of the Right to Information Act, 2005, order dated 26.04.2018 (Annexure P-7) passed by the Director-cum-First Appellate Authority, Vigilance Bureau, Head Quarters, Punjab-respondent No. 3 and order dated 30.10.2018 (Annexure P-9) passed by the Chief Information Commissioner, Punjab- respondent No. 2, whereby the appeals preferred by the petitioner against the order passed by the Public Information Officer stand rejected.

It is the contention of the learned counsel for the petitioner that the reasons have to be assigned by the Public Information Officer as to why the information has not been supplied to the petitioner as has been sought by him bringing it within the exception of Section 8(1) (h) of the Right to Information Act. He contends that since no reasons whatsoever have been assigned by the respondents, it cannot be said that it would fulfil the

mandate of the Right to Information Act which would bar supply of information to the petitioner. His further contention is that the reason, which has been assigned, if any, is merely on the plea that the prosecution would be hampered as the case is pending in the Court after the submission of the charge-sheet against the petitioner. He, thus, contends that the orders passed by the authorities below cannot sustain. In support of his contention, he has placed reliance upon a judgment of the Delhi High Court in **Bhagat Singh vs. Chief Information Commissioner**, 2008 (146) DLT 385 as also a judgment passed by the Central Information Commission in Complaint No. CIC/SM/C/2011/000117/SG titled as **Justice R.N.Mishra (Retired) vs. Nirbhay Kumar**.

I have considered the submissions made by the learned counsel for the petitioner and with his assistance, have gone through the impugned orders.

A perusal of the file would indicate that the authorities had intimated the petitioner the reason as to why the information cannot be supplied to him and would fall within the ambit of Section 8 (1) (h) of the Right to Information Act, 2005. It is an admitted case that FIR No. 11 dated 02.08.2017 was registered at Police Station Vigilance Bureau, Bathinda, wherein charge-sheet has been filed against the petitioner after the investigation. The prosecution in the case is continuing in the Court. The information, which is being sought by the petitioner, is directly relatable to the prosecution of the case and, therefore, since it is likely to hamper the prosecution, the information has been denied to the petitioner.

In the considered view of the this Court, the plea, as has been taken with regard to the applicability of Section 8 (1) (h) of the Right to

Information Act, 2005, is fully justified and does not call for interference by this Court in exercise of its writ jurisdiction.

As regards the contention of the learned counsel for the petitioner that the reason has to be assigned for non-supply of information and bringing it within the ambit of Section 8 (1) (h) of the Right to Information Act, the same, in the considered view of this Court, has not to be elaborated or detailed therein as it may, in itself, hamper the prosecution of the case. The information, which is being sought under the Right to Information Act, and the nature of the prosecution, which is not against the person, has to be looked into by the competent authority under the Right to Information Act to come to a conclusion as to whether the same would fall within the ambit to exception which would bar the supply of information under the Right to Information Act. The judgment as passed by the Delhi High Court in Bhagat Singh's case (supra) as well as the Chief Information Commission in Justice R.N.Mishra (Retired)'s case (supra) would not be of such nature where the prosecution would be hampered whereas in the present case, this Court is of the affirmative view that the supply of information, as has been sought, would lead to hampering of the prosecution against the petitioner.

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

(AUGUSTINE GEORGE MAISH)
JUDGE

January 10, 2019

pj

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No