

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

**CWP No.4063 of 2020 (O&M)
Date of Decision: 07.07.2022**

Mahender Singh Chawla

..... Petitioner

Versus

Yash Pal Singhal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Sanjay Ghalawat, Advocate for the petitioner.

Mr. Ashok Kumar Sehrawat, D.A.G., Haryana.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed under Article 226 of the Constitution for quashing the impugned order dated 03.09.2019 (P-4), whereby appeal of the petitioner was disposed off.

(2) It transpires that petitioner made a request seeking certain information under the Right to Information Act, 2005 (*for short 'Act'*), vide application dated 14.06.2019 (P-1), and relevant part of the same is extracted as under:-

“1. I have registered FIR No.68/2019 in P.S.Sanauli, Panipat and kindly to supply the certified copies of all the pages of the case diary from the commencement of date till the date when the information will be supplied.

2. To kindly supply the certified copies of all the pages of the service record (Naukri Chitha) of Police Station Sanauli, Panipat from dated 01.01.2017 till the date of supply of information.”

(3) Since the desired information was not supplied by the quarter concerned, therefore, petitioner approached the First Appellate Authority-cum-S.P. Panipat on 03.07.2019 (P-2), but he remained dis-satisfied. Ultimately, petitioner filed second appeal dated 09.07.2019 (P-3) before respondent No.1-State Chief Information Commissioner, Haryana (*for short’ Commission’*), which was disposed off on 03.09.2019 (P-4).

(4) After passing the above order, petitioner filed rejoinder dated 26.09.2019 (P-5) before the Commission seeking fresh hearing in the second appeal, but no response was received.

(5) Again, petitioner filed rejoinder dated 27.09.2019 (P-6) before the Hon’ble Governor of Haryana, followed by reminders dated 01.11.2019 (P-7 & P-8) for fresh hearing of the second appeal, but the result remained the same. Hence, the present petition.

(6) It is contended by learned Counsel for the petitioner that the Commission while disposing off his appeal on 03.09.2019 did not afford any opportunity of hearing, thus, a great prejudice has been caused. Also contended that information, sought by the petitioner, is duly available with the respondents, but they have not supplied the same deliberately.

Per contra, learned State Counsel opposed the prayer of the petitioner while submitting that he is misusing the provisions of the Act. Also contended that petitioner is a habitual litigant as he has already submitted number of RTI applications to harass the authorities. Also submitted that order, passed by the Commission, is perfectly legal and does not deserve any

interference by this Court while exercising jurisdiction under Article 226 of the Constitution.

(7) Heard learned Counsel for the parties and perused the paper-book.

(8) Paper-book reveals that petitioner had already submitted more than 30 applications under the Act seeking information in pending criminal cases at different Police Stations in the State of Haryana for the reasons best known to him.

(9) This Court has gone through the impugned order carefully and after perusal of the same, it transpires that the Commission while disposing off the appeal has dealt with every aspect of the matter in right perspective. The order also reveals that information containing in 29 pages was furnished to the petitioner on 15.07.2019 free of cost and which was duly received by him. It is also discernible that first appeal was heard on 24.07.2019, but petitioner did not appear. The Commission, after perusal of the records, disposed off the same on 24.07.2019 while observing that information has already been furnished by the SPIO to the petitioner. Again, the matter came up for hearing before the Commission on the premise that complete information has not been furnished by the SPIO. Consequently, the Commission on 03.09.2019 again passed a detailed order while recording sufficient reasons and para Nos.5 & 6 of the same read as under:-

“ 5. The Commission carefully heard the oral submissions of the respondent SPIO and perused the record on the case file alongwith the grounds and the contents of the appeal. Information sought by the appellant and furnished by the respondent SPIO was examined in detail during hearing. The Commission noted that the appellant has sought voluminous information. The Commission, prima facie, observes that permissible information on the basis of available record of the public authority has been furnished to the appellant

by the respondent SPIO. However, in the interest of justice, transparency and good governance, the Commission affords an opportunity to the appellant to inspect the relevant record on any working day within fifteen days of the receipt of this order with two days prior notice to the respondent SPIO in this regard. The respondent SPIO is directed to offer the relevant record to the appellant for inspection on receipt of appellant's written request and furnish certified copies of the permissible documents identified by the appellant upto 50 pages, free of cost, subsequent to inspection of record. Non-permissible record may be severed by using Section 10 of the RTI Act. In case there is still any discrepancy in the furnished information, the appellant is at liberty to file specific rejoinder with the respondent SPIO with a copy to the Commission, within fifteen days of the receipt of information mentioning clear deficiencies. The respondent SPIO is directed to go through the appellant's specific rejoinder, if received within fifteen days of receipt of information, and furnish specific information to the appellant on the basis of available record, within fifteen days of receipt of specific rejoinder under intimation to the Commission.

The Commission further noted that the appellant has invoked the exceptional clause of life and liberty of the RTI Act and had sought information within 48 hours. Perusal of the RTI application dated 14.06.2019 does not establish that the sought information related to the "life or liberty" of the appellant and non-furnishing of information is likely to increase threat to the life of the appellant to attract proviso to Section 7(1) of the Act. The onus to prove the existence of special circumstances lies on the applicant. The appellant has not set out the existence of special circumstances to prove which warrants the invocation of the proviso of Section 7 (1) of the Act. Mere recital of the expression "life & liberty" is not sufficient. No case is made out for initiating proceedings under Section 20 of the Act against the respondent SPIO as no malafide has been established on his part. The appellant is not present to make submissions in this regard.

6. *In view of the above findings, the appeal is disposed of accordingly."*

(10) The above conclusion, recorded by the Commission, does not deserve any interference by this Court while entertaining the present judicial review under Article 226 of the Constitution.

(11) Paper-book also reveals that an application dated 26.09.2019 was filed by the petitioner before the State Commission, but the fate of same is not known.

(12) In view of the above, this Court is of the opinion that present petition is complete misuse of the process of Court and the same deserves to be dismissed with costs. However, taking a lenient view, the writ petition is simply dismissed.

Needless to say that dismissal of the present writ petition shall not debar the petitioner from pursuing his application dated 26.09.2019, which is stated to be pending before the Commission as on today.

Pending application(s), if any, shall also stand disposed off.

July 7th, 2022
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes