

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.7289 of 2022 (O&M)
Date of Decision: 06.04.2022

Mohit Petitioner
Versus
SPIO, Municipal Corporation, Panipat and ors. Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr.Aditya Vashishath, Advocate for the petitioner.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed under Article 226 of the constitution seeking writ in the nature of mandamus directing respondents to provide the relevant information in terms of application dated 15.01.2021 filed under Section 3 of the Right to Information Act, 2005 for short 'the Act'.

(2) Paper-book reveals that petitioner submitted above mentioned application to S.P.I.O., Office of Municipal Commissioner, Panipat for seeking certain information under the Act and relevant part of the same reads as under:-

"3.	Required details of information 1. Subject of Information	1. That the post of Sub Fire Officer in your department comes in Technical or Non-Technical. The details should be given. 2. That the employees who are working in the post of Sub Fire Officer in Panipat Division, under which category they work in Technical or non-Technical.
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		<i>Its details should be given along with attested copy.”</i>
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(2)(i) As no response was received by the petitioner, therefore, he preferred an appeal before the First Appellate Authority-cum-Joint Commissioner, Municipal Corporation, Panipat and the same was disposed off on 25.03.2021 without any positive response.

(2)(ii) Feeling dissatisfied with the aforesaid orders, petitioner preferred second appeal under the Act, before the State Information Commission, Haryana, for short ‘the Commission’; and which was disposed off vide order dated 20.09.2021 with the following directions:-

- “(i) The respondent SPIO-cum-E.O., O/o Municipal Corporation, Panipat shall re-visit the appellant’s RTI application dated 15.01.2021 and shall furnish point-wise permissible information to the appellant within three weeks of receipt of the order under intimation to the Commission.*
- (ii) In case there is still any discrepancy in the furnished information, the appellant is at liberty to submit a specific rejoinder with the respondent SPIO with a copy to the Commission, within fifteen days of the receipt of information mentioning clear specific deficiencies in the furnished information. The respondent SPIO is directed to go through the appellant’s specific observations/ rejoinder, if received within directed period, and furnish copies of the permissible documents to be pointed out by the appellant in his specific observations/ rejoinder within fifteen days of its receipt under intimation to the Commission.*
- (iii) FAA is directed to discharge his obligations under the RTI Act diligently and ensure that all the RTI*

appeals received by him are decided by issuing speaking order within the specified time limit, after affording an opportunity of hearing to the parties.

(iv) Further it is made clear that non-compliance of this order would attract the provisions of Section 20 (1) of the RTI Act, 2005 against the respondent SPIO.”

(2)(iii) In pursuance of the above orders; the first appellate authority vide communication dated 30.11.2021, asked the Fire Station Officer, MC Panipat to supply requisite information to the petitioner. In turn thereof, the SPIO vide letter dated 02.12.2021 responded in the following manner:-

- “1. **Point No.1.** Whether the post of Sub Fire Officer is technical or not, it is related to Directorate, Fire and Emergency Services Haryana, Panchkula.*
- 2. **Point No.2.** The Fire Officer currently working in Panipat Division is post technical or non technical, this point is related to Directorate of Fire and Emergency Services Haryana, Panchkula.”*

(3) It is contended by learned counsel for the petitioner that despite specific directions by the Commission, requisite information has not been supplied by respondent Nos.1, 2 & 3; therefore, a mandamus be issued against them for compliance of the order dated 20.09.2021.

(4) Heard learned counsel for the petitioner and perused the paper-book.

(5) Paper-book reveals that petitioner applied for the post of Sub-Fire Officer in pursuance of the advertisement (P-1). After clearing the written examination, he faced interview; but was rejected on the premise that his eye-sight was not 6/6. It is contended that post of Sub Fire Officer is of “Non-technical” nature and as such, there was no requirement of eye-

sight as 6/6. Further contended that petitioner has not been supplied the requisite information and due to that reason he is not able to challenge the action of the respondents before the Court of competent jurisdiction.

(6) Be that as it may; the Commission while passing the order dated 20.09.2021 has already issued appropriate directions to respondents No.1, 2 & 3 and observations to that effect are already recapitulated in para No.2 (ii) of this order.

(7) Thus, in such a situation, even if, there is a failure on the part of the respondents 1, 2 & 3 for compliance of the above said order passed by the Commission, the petitioner has a remedy under Section 20 of the Act.

(8) In view of the above, this Court does not deem it appropriate to entertain the present writ petition for enforcement of the order dated 20.09.2021, passed by the Commission while invoking jurisdiction under Article 226 of the Constitution.

As a result thereof, there is no option except to dismiss the writ petition.

Ordered accordingly.

However, it is clarified that dismissal of the writ petition shall not debar the petitioner from availing remedy as per law before the Commission.

06.04.2022
sanjay

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>