

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

**LPA No.379 of 2022(O&M)
DECIDED ON: 12th MAY, 2022**

JAGJEET SINGH

.....APPELLANT

VERSUS

HON'BLE CENTRAL INFORMATION COMMISSIONER & ORS

.....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH.
HON'BLE MR. JUSTICE SANDEEP MOUDGIL.**

Present: Mr. Nitin Sharma, Advocate
for the appellant.

Mr. Parminder Singh Kanwar, Advocate with
Mr. Rohit Kaushik, Advocate
for UT, respondents No.2 to 6.

SANDEEP MOUDGIL, J.

CM-949-LPA-2022:

Present application is under Section 151 CPC seeking exemption from filing certified/true typed copies of pleadings of CWP No.24734 of 2021 alongwith Annexure and for permission to place on record in addition true photo copies of the same and exemption from filing certified copies of impugned order dated 06.12.2021 in CWP No.23734 of 2021.

For the reasons stated in the application, prayer is accepted and exemption is allowed in terms thereof with just exceptions.

LPA-379-2022:

In the present appeal, the appellant is aggrieved of the order dated 06.12.2021, passed by the learned Single Bench, vide which the writ petition

filed by the appellant has been dismissed, declining to initiate action against respondents No.2 to 6, in exercise of powers under Section 20 of the Right to Information Act, 2005 (hereinafter referred to as 'the Act of 2005').

2. The instant Intra Court Appeal raises a question for examination before this Court that whether a direction can be issued to take action against the official respondents No.2 to 6 by invoking Section 20 of the Act of 2005 without affording an opportunity of hearing.

3. In brief the facts can be summarized in the form that the appellant, who is working as Head Constable in Traffic Wing of Chandigarh Police, sought information under Right to Information Act about the stock registers being maintained in all units of Chandigarh Police relating to non-consumable items, pertaining to the year 2017-2018.

4. Learned Counsel for the appellant drew our attention to the orders dated 28.07.2021, passed by the Central Information Commissioner, Central Information Commission, New Delhi, vide which a direction was issued to the CPIO to offer an inspection of records and to provide photocopies of the documents, as desired by the appellant. Operative part of the decision dated 28.07.2021 has also been read over, which is reproduced hereinbelow as well:-

“Keeping in view the facts of the case and the submissions made by both the parties, the Commission directs the CPIO to offer an inspection of records pertained to stock registers of Camp offices regarding non consumable government items for the year 2017 & 2018 on any mutually convenient date and time and provide photocopies of documents desired by the Appellant during inspection of records, free of cost for the first 10 pages. But for the remaining the Appellant may be charged in accordance with

the RTI Rules 2012. A letter intimating the Appellant regarding the inspection of records along with the date and time should be sent within 07 days after receiving this order and inspection should be done in next 21 days, under the intimation to the Commission.

The Commission also directs the Respondent to depute a responsible officer to assist the Appellant during an inspection and facilitate inspection of complete files and provide certified copies of selected documents to the Appellant as per the Rule 4 of the RTI Rules, 2012.”

5. It is further submitted that in compliance of the order dated 28.07.2021, the appellant-petitioner was called upon vide letter dated 06.08.2021 (Annexure P-21), issued by DSP-cum-Central Public Information Officer, UT, Chandigarh to inspect the records on or before 12.08.2021. Learned counsel for the appellant also contend that despite there being a specific direction by the Central Information Commissioner, he was not provided the stock registers of camp office regarding non-consumable items.

The attention of this Court was also drawn to the application 01.10.2021 made by the appellant-petitioner before Central Information Officer for imposition of penalty and recommendation of disciplinary action against respondents No.2 to 6 by invoking Section 20 of the Act of 2005. Having failed to get any response, the appellant-petitioner approached this Court by way of CWP No.19882 of 2021, which was disposed of vide order dated 01.10.2021 with the following directions:-

“The present petition is disposed of with a direction to respondent No.1- Central Information Commissioner, Central Information Commission, New Delhi to decide the application moved by the petitioner under Section 20 of the Right to Information Act, 2005, expeditiously.”

6. At this stage the appellant-petitioner again approached to this Court by way of another Civil Writ Petition No. 24734 of 2021 seeking issuance of a writ in the nature of certiorari/mandamus to set-aside the order dated 28.07.2021, passed by respondent No.1 to the extent of non-imposition of penalty as well as issuance of directions for initiating disciplinary action against respondents No.2 to 6 which was dismissed vide order dated 06.12.2021.

7. The respondent No.1 on advance notice of the present appeal, puts in appearance through Mr. Parminder Singh Kanwar and Mr. Rohit Kaushik, Advocates for Union Territory, Chandigarh and submits that the appellant ought to have waited for the outcome of application dated 01.10.2021 (Annexure P-23) so moved by him. It is also stated that in fact the appellant had acted with undue haste despite having directions passed in earlier CWP No. 19882 of 2021, which was disposed of to decide the afore-said application under Section 20 of the Act of 2005 expeditiously. It has been also contended on behalf of the respondents that without affording any opportunity of hearing to respondents No. 2 to 6 by the Central Information Commissioner action cannot be initiated by invoking Section 20 of the Act of 2005. It would be apt to have a glance of Section 20 of the Act of 2005 which envisaged as under:-

20. Penalties.—

(1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for

information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees: Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him: Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.”

8. After having heard learned counsel for the parties and on perusal of the records, we do not find any merit in the present appeal.

9. While passing the order dated 28.07.2021, the Central Information Commissioner, Central Information Commission, New Delhi, has nowhere recorded any finding against respondents No.2 to 6 to the effect that the information was refused to the appellant-petitioner on account of any malafide or knowingly any incorrect, incomplete or misleading or destroyed information, was furnished to the appellant. Neither any such finding has been recorded by the Central Information Commissioner nor even any such prayer for invoking Section 20 of the Act of 2005 was ever raised before the Central Information Commissioner at the time of hearing on 23.07.2021, which is apparent from the order dated 28.07.2021.

10. In the absence of any such findings recorded by the Central Information Commissioner, no directions can be issued for invoking action in accordance with Section 20 of the Act of 2005, against respondents No.2 to 6 and that too without grant of any opportunity of hearing to them by the Central Information Commissioner as envisaged in the Section itself.

11. The undue haste shown by the appellant in filing the present writ petition i.e. CWP No.24734 of 2021 on 09.11.2021, without having waited for the outcome of the directions issued by this Court, vide order dated 01.10.2021 passed in CWP No.19882 of 2021 also reflects his intent of merely being interested in getting the penalty imposed upon respondents No.2 to 6 or getting disciplinary action initiated against them, rather than being interested in getting the information.

12. Hence in view of the discussion made above, no interference is warranted inasmuch as the appeal is devoid of any merit, and, therefore, the same is dismissed.

13. In view of the dismissal of main appeal, pending application if any, shall stands disposed of.

(SANDEEP MOUDGIL)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

12th MAY, 2022
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No