

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

CWP No. 10403 of 2018 (O&M)

Date of Decision: 23.08.2022

Haryana Public Service Commission and another

.....Petitioners

Versus

State Information Commission and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present:- Ms. Harpriya Khaneka, Advocate,
for the applicant-petitioners.

Mr. Kiran Pal Singh, AAG Haryana.

MAHABIR SINGH SINDHU. J.

CM-9346-CWP-2018

Application for placing on record affidavit of Manish Kumar Lohan,
Deputy Secretary, Haryana Public Service Commission.

For the reasons stated in the application, the same is allowed subject to
all just exceptions. Aforesaid affidavit is taken on record.

Registry will tag the same at appropriate place.

Main case

Present writ petition has been filed under Article 226 of the Constitution for quashing of the order impugned dated 22.06.2017 (P-11) passed by the State Information Commission, Haryana (*for short "the Commission"*) whereby petitioner was directed to supply certain information to respondent No.2 under the provisions of Right to Information Act, 2005 (*for short "the Act"*).

2. It transpires that respondent No.2 moved an application dated 23.09.2016 before the State Public Information Officer (*for short "the SPIO"*),

thereby asking for certain information and relevant part of the application reads as under:-

1. *The number of expert(s) appointed by HPSC for paper setting of General Studies paper for the mains exam of the above said recruitment.*
2. *The number of subject expert(s) appointed by HPSC for evaluation of General Studies paper for the mains exam of the above said recruitment, their qualification and field of specialization.*
3. *The copy of announcement/notification issued by the commission for inviting the representation/objections regarding the discrepancies in question papers/erroneous questions or out of syllabus questions for various optional papers and compulsory papers for the mains examination of the above said recruitment as per the directions issued by division bench of Hon'ble Punjab & Haryana High Court in LPA No. 1338 of 2012 Jitender Kumar and others Vs. State of Haryana and another.*
4. *The no. of representations/objections regarding the discrepancies in question papers/erroneous questions or out of syllabus questions for various optional and compulsory papers for the mains examination of the above said recruitment received by the Commission through e-mail or any other mode.*
5. *Copy of report of expert committee/experts regarding the evaluations representations/objections received by the commission as mentioned in para 4.*
6. *Whether the panel of experts for evaluation of representations as in para 5 was same as that appointed by the commission for paper setting of various compulsory and optional papers for the mains examination of the said recruitment.*
7. *Copy of expert committee report on my representation regarding the discrepancies in General Studies and Physics (optional) paper(s) sent to Secretary HPSC through e-mail on 08.06.2016 at 20.55 pm (copy attached).*

8. *Whether the technique of Scaling and Moderation was adopted to avoid the bunching of candidates in a few subjects and provide equal opportunity to the candidates opting for various optional subjects.*

9. *Break up of marks/weightage given for various personality aspects, co-curricular activities or any other personality traits deemed fit by the commission for evaluation of the candidates in Viva-Voce/personality test.*

10. *The list of co-curricular activities which were considered important for evaluation of the candidates as in para 9.*

11. *The break of marks awarded to all the candidates for various personality traits of the candidate during Viva-Voca /Interview for the above said recruitment.*

12. *Copy of interview sheet for awarding marks to the candidates by each member of the interview committee as signed and prepared by each Hon'ble member of the commission."*

3. Acting on above said application, certain information were supplied to respondent No.2, but he remained unsatisfied and ultimately, the matter reached before the Commission. While deciding the appeal, Commission, vide impugned order dated 22.06.2017, directed present petitioner No.2 to the following effect:-

"5. In view of the above, the respondent SPIO-cum-Superintendent, Haryana Public Service Commission, Panchkula is directed to furnish complete information on point Nos. 5, 6, 7 & 9 to 11 of his RTI application dated 23.09.2016, to the appellant within three weeks of receipt of the order under intimation to the Commission."

After passing of the above order, a show cause notice dated 30.11.2017 (P-15) was also issued by the Commission under Section 20 of the Act.

4. It is contended by learned counsel for the petitioners that after passing of the order dated 22.06.2017, the information (except at point No. 5 & 7) has already been supplied to respondent No.2 and reference in this regard is made to para 14 of the writ petition:-

“14. That the order of the learned State Information Commission to the extent of sending information to the respondent No.2 on the points No.5 & 7 (since the information on the points No. 6, 9, 10 and 11 have already been sent to the respondent No.2) and further issuing a show cause notice dated 30.11.2017 holding therein that the Commission (SIC) while perusing the request dated 23.10.2017 of the SPIO has noted that the compliance of the Commission’s (SIC) order has yet to be made’.”

Also contended that so far as information at points No.5 & 7 is concerned, the same was not available with the petitioners and as such, could not be supplied. To support the above contention, pointed reference is made to affidavit dated 19.06.2018 of the Deputy Secretary of the Haryana Public Service Commission. Para 4 of the same reads as under:-

“4. That it is submitted that there is no other report of expert except the report/certificate in sealed cover which was produced before the Hon’ble Court on 03.05.2018.”

This Court vide order dated 27.04.2018 directed the petitioners to produce the necessary information in a sealed cover which was duly produced and after perusal of the same, on 03.05.2018, it was observed:-

“A sealed envelop containing some documents has been produced before the Court by learned counsel for the petitioner. The envelop has been opened in the Court, wherein only the certificates given by the Examiner are there and not the report of the Committee. The same has been returned back to learned counsel for the petitioner.”

5. Despite due notice, respondent No.2 has chosen not to appear for contesting the present proceedings. Thus, there appears to be a valid reason that respondent No.2 is fully satisfied with the information already supplied to him. Even otherwise, categorical averment has been made in the affidavit by responsible officer i.e. Deputy Secretary that there is no other information available with them.

6. In view of the above, there is no option except to allow the writ petition.

7. As a result thereof, present writ petition is allowed. Impugned order dated 22.06.2017 (P-11) directing the petitioners to supply information qua points No. 5 & 7 as well as Show-cause Notice dated 30.11.2017 (P-15) are set-aside.

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

23.08.2022

SN

(MAHABIR SINGH SINDHU)

JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable: Yes/No