

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No. 2446 of 2021
Date of decision: 12th April, 2023

Anish Jain

Petitioner

Versus

State Information Commission and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vipul Sharma, Advocate for the petitioner.
Mr. Sharad Aggarwal, AAG, Haryana.

AVNEESH JHINGAN, J (Oral):

This writ petition in the nature of *Certiorari* is filed seeking quashing of order dated 7.9.2020 whereby the State Information Commission (for short, 'the Commission') dropped penalty proceedings under Section 20 of the Right to Information Act, 2005 (for short, 'the Act') against respondent No. 6 (hereinafter referred to as 'the respondent').

The brief facts are that the petitioner filed two applications on 8.2.2019 seeking information detailed therein. Aggrieved of non-supply of information, two appeals were filed on 26.4.2019. The first appellate authority disposed of the appeals on 3.6.2019 with the direction to the State Public Information Officer-cum-District Town Planner (HQ) (for short, 'SPIO') to supply the information within seven days. The second appeal was preferred on 2.9.2019. During the pendency of the appeal, show cause

notice was issued to the respondent under Section 20 of the Act. The respondent filed reply to the show cause notice. The appeal was disposed of on 7.9.2020. The operational part of the order is reproduced below:

“6. After hearing the respondent SPIO and going through the case file, the Commission decided the show cause notice in appeal case with following directions:

(1) Shri Sanjay Kumar, respondent SPIO-cum-DTP (HQ), Chandigarh is directed to furnish complete information to the appellant at his new address, in an attested form, free of cost, within two weeks of receipt of this order through registered post or email, as convenient.

(2) The Commission further observed that the delay is not intentional, but circumstantial, therefore, the Commission decided to drop penal proceedings against the SPIO.

Heard. Announced. To be communicated.”

The grievance raised in the present petition is that the Commission erred in dropping the penalty proceedings.

Learned counsel for the petitioner submits that the information was intentionally not supplied by the respondent and delay was attributable to him.

Learned counsel for the State defends the impugned order.

The Commission recorded a specific finding of fact that the SPIO vide order dated 8.2.2019 requested the petitioner to visit the office to

inspect the record as the information was sought in the shape of question but the petitioner never visited the office. In compliance with the order of the Commission, on 6.2.2020 the complete record was sent in Compact Disc to the petitioner vide letter dated 26.2.2020 but the letter was received back un-delivered. It was further taken note of that in the second appeal the petitioner had given his new address and there appeared to be change in address.

Having conspectus of the facts, the Commission came to the conclusion that show cause notice for penalty under Section 20 of the Act should be dropped.

In writ jurisdiction, the factual aspects need not to be gone into. There was a reasonable explanation put forth by the respondent explaining the delay. Law is well settled that penalty is not to be imposed merely because it is lawful to do so.

No interference is called for in the impugned order.

The petition is dismissed.

Needless to say that the petitioner would be at liberty to move a fresh application for seeking further information.

[AVNEESH JHINGAN]
JUDGE

12th April, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |