

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

CWP-10633-2021

Date of Decision: 20th January, 2023

Pradhuman Singh

... Petitioner

Versus

State Information Commission and another

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vivek Singla, Advocate for the petitioner.

Mr. Sharad Aggarwal, Assistant Advocate General, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. The writ petition in the nature of Certiorari is filed for quashing of order dated 16.3.2021 imposing penalty of Rs. 10,000/- upon the petitioner.
2. None has put in appearance on behalf of respondent No.2 despite service.
3. Brief facts of the case are that respondent No.2 filed an application under the Right to Information Act, 2005 (for short 'the Act') seeking details of the perks and postings of the employees of The Haryana Shehri Vikas Pradhikaran (HSVP). The information was declined vide order dated 6.3.2020. An another request was made by respondent No.2 on 14.3.2020 claiming that the information was wrongly declined. On 8.6.2020 out of seven informations sought, four were supplied. Aggrieved of non-supply of remaining information, respondent No.2 preferred appeal.

4. During the pendency of first appeal, second appeal was filed on 5.11.2020. On receipt of the notice of second appeal, the remaining information was supplied by HSVP.

5. The State Information Commission (for short 'the Commission') vide order dated 10.2.2021 issued show cause notice under Section 20 (1) of the Act to the petitioner for causing delay in supplying the information and by order dated 16.3.2021 imposed costs of Rs. 10,000/- upon the petitioner.

6. Learned counsel for the petitioner submits that the petitioner was posted as Estate Officer, HSVP, Karnal from 4.8.2020 till 22.2.2021. The contention is that delay was not caused during the tenure of the petitioner at Karnal. It is further argued that the petitioner was not posted at Karnal on the date when penalty was imposed. It is contended that SPIO-cum-Estate Officer, Karnal holding charge on 16.3.2021 vide letter dated 15.3.2021 had sought time from the Commission to respond to the show cause notice as he had taken the additional charge only on 1.3.2021.

7. Learned counsel for respondent No.1 is not disputing the fact regarding the timeline of events as they are unfurled and putforth by the learned counsel for the petitioner.

8. Before proceedings further, Section 20 of the Act is reproduced below :-

“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.”*

9. Section 20(1) of the Act empowers the Central Information Commission or the State Information Commission to impose penalty while

deciding the complaint or the appeal. Penalty shall be imposed if in the

opinion of Commission, the Center Public Information Officers (CPIO) or SPIO without any reasonable cause had not received application for information or not furnished information within the time specified under Section 7(1) or malafidely denied the request or knowingly given incorrect, incomplete or misleading information or destroyed the information or obstructed the furnishing of the information.

10. The proviso to sub-section (1) provides for a reasonable opportunity of hearing before imposing the penalty.

11. As per the second proviso the onus is on CPIO or SPIO to prove that he acted reasonably or diligently.

12. In the case in hand, it is undisputed fact that the information asked for was supplied to respondent No.2.

13. From the perusal of the impugned order, it is forthcoming that the Commission telephonically tried to contact the petitioner but received no response. Mr. Yogesh Ranga, SPIO-cum-Estate Officer holding charge of SPIO-cum-Estate Officer Karnal at that time, attended the proceedings by audio conferencing.

14. The present incumbent vide letter dated 15.3.2021 sought time for going through the record and responding to the notice issued under Section 20 of the Act but without deciding upon the request of adjournment, the penalty was imposed.

15. The penalty was imposed by a non-speaking order, without considering the facts of the case and only on the ground that no response to the show cause notice was received. The request for adjournment was neither noticed nor dealt with and it resulted in denying reasonable opportunity of hearing. No finding was recorded that delay was

attributable to petitioner.

16. It would be appropriate to mention that the submission of application seeking information, its denial and partial supply of the information was prior to the petitioner taking charge at Karnal. Further, on receipt of the notice of the second appeal, the remaining information was supplied and respondent No.2 was satisfied with information received.

17. In view of the above, the writ petition is allowed and the impugned order is set aside.

18. Since the main case has been decided, the pending application(s), if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

20th January, 2023
anuradha

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No