

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

CWP-14677-2011

Date of Decision: 11th January, 2023

Fortis Healthcare (India) Ltd. ... Petitioner

Versus

State of Punjab and others ... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sanjeev Sharma, Sr. Advocate with
Mr. Mrigank Sharma, Advocate and
Mr. Vikram Vir Sharda, Advocate for the petitioner.
Mr. Rajesh Mehta, Addl. A.G., Punjab.
Mr. APS Shergil, Advocate for respondent No. 3.
Mr. DV Sharma, Sr. Advocate with
Mr. Tushar Sharma, Advocate for respondent No. 4.

AVNEESH JHINGAN , J.(Oral)

1. This writ petition in the nature of certiorari is filed seeking quashing of order dated 12.5.2011 passed by State Information Commission, Punjab (for short 'the Commission') holding Fortis Healthcare (India) Ltd. as a public authority within the meaning of Section 2 (h) of Right to Information Act, 2005 (hereinafter referred to as 'the Act').

2. It is not disputed that the information sought under the Act by respondent No. 3 was provided. The only dispute surviving is whether petitioner would be covered within the definition of Section 2 (h) of the Act or not ?

3. The case set up against the petitioner is that the hospital site was allotted to the petitioner at concessional rates and hence, the petitioner falls within the scope of Section 2(h)(d) (ii) of the Act.

4. Learned counsel for the petitioner disputes the fact that the land was allotted at a concessional rate.

5. For deciding as to whether the petitioner falls within the ambit of Section 2(h) of the Act, firstly, the factual aspect needs to be decided as to whether hospital site was allotted at concessional rate or not and what is the effect thereof?

6. This issue was not considered by the Commission. Moreover, the Commission while passing the order dated 12.5.2011 had placed reliance upon the decision of the Kerala High Court in ***“Thalappalam Ser. Coop. Bank Ltd. And others vs. State of Kerala and others” '2009 (3) CCS-273 Kerala'*** which was overruled by the Supreme Court in ***“Thalappalam Ser. Coop. Bank Ltd. And others vs. State of Kerala and others” 2013(16) SCC 82.***

7. In view of the above, the impugned order is set aside and the matter is remitted back to the Commission for decision afresh after providing an effective opportunity of hearing to the petitioner. Disposed of.

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

**(AVNEESH JHINGAN)
JUDGE**

11th January, 2023

anuradha

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No