

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

(106)

CWP-14734-2023

Date of decision: - 14.07.2023

Parbhu Dayal

....Petitioner

Versus

State Information Commission, Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. R.S. Sangwan, Advocate,
for the petitioner.

Ms. Palika Monga, DAG, Haryana.

VIKAS BAHL, J. (ORAL)

1. This writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ of mandamus directing the respondents to provide information to the petitioner as per application dated 10.01.2022 (Annexure P-1) and order dated 24.08.2022 (Annexure P-4) passed by respondent No.1 and to punish respondent No.4 in accordance with law.

2. Learned counsel for the petitioner has submitted that the petitioner had given RTI application dated 10.01.2022 (Annexure P-1) and thereafter, after hearing the parties, the State Information Commission Haryana had passed the following order: -

“7. After hearing the submissions of the parties, perusal of the documents available on the file, the Commission observed that though the SPIO O/o M.C. Charkhi Dadri supplied the requisite information to the appellant but the same is incomplete. Under the RTI Act, 2005 the SPIO is bound to supply the requisite information to the

appellant within a maximum period of 30 days but in the present case the SPIO failed to supply complete information to the appellant which is a serious lapse on the part of the SPIO. Merely informing the appellant that the information sought by him is not available in the office record does not exonerate the SPIO from the liabilities as prescribed under the RTI Act, 2005. The SPIO was required to intimate the appellant regarding existence/non-existence of the information sought by the appellant. The Commission further observed that in case the information sought by the appellant was existed earlier but presently not available in the office record then it is a very serious matter but it appears that the SPIO/ASPIO and other officials of the Municipal Council, Charkhi Dadri has taken the RTI matter lightly or in a very casual manner. Under these circumstances, the Commission disposed off the appeal with the following directions:-

- I. The SPIO O/o Municipal Council, Charkhi Dadri is directed to supply complete information to the appellant considering all the points mentioned in the RTI application (duly certified, point wise and in an annotated form) free of cost, to the appellant, within twenty days from the receipt of this order, strictly as per provisions of the RTI Act, 2005, through registered post, under intimation to the Commission. After supplying the information to the appellant, if the appellant wants to inspect the record, the SPIO is directed to offer an opportunity for the same to the appellant, intimating him through registered post the particular date and time for appearance on any working day, on the given address of the appellant and thereafter provide information upto 50 pages either on the spot after the inspection or send the same at the given address of the appellant through registered post free of cost within two weeks from the date of inspection and the copy of information so supplied be also sent to Commission. The respondent SPIO shall facilitate the inspection of the relevant record to the appellant on the day of inspection.*
- II. In case the information sought by the appellant on any point is not discloseable under the RTI Act, 2005 then the SPIO is directed to pass a speaking order in this regard within 20 days from the date of receipt of the order and convey the same in writing through registered post to the appellant as well as to*

the Commission.

- III. In case the information sought by the appellant on any point is not available with the office of SPIO, then the SPIO is directed to file an undertaking affirming therein that the requisite information (specifically mentioned) is not available in the office record. The original undertaking be sent to the appellant within 15 days from the date of receipt of this order and a copy of the same be sent to the Commission.*
- IV. In case the information sought by the appellant on any point is not related to him then the SPIO is directed to transfer the RTI application under Section 6(3) of the Act to the concerned public authority, within 15 days from the date of receipt of this order and a copy of the same be sent to the Commission as well as to the appellant.*
- V. In case of non compliance of the order penal action under Section 20 or any other Section of the Act will be initiated against the SPIO as per the provisions of the RTI Act, 2005.*

Announced. To be communicated.

*Place: Chandigarh
Dated. 24.08.2022*

*(Chander Parkash)
State Information Commissioner,
Haryana”*

3. Learned counsel for the petitioner has stated that even after observing that the SPIO has failed to supply the complete information and that there is a serious lapse on his part, no further proceedings under Section 20 of the RTI Act were initiated. It is further submitted that in the said order, it has been specifically stated that in case the information is not supplied within a period of 20 days and in case the order is not complied with, then, penal action under Section 20 would be taken against the SPIO as per the provisions of RTI Act, 2005. It is argued that in spite of the said order, the information has not been supplied and thus, the petitioner had moved an application dated 18.04.2023 (Annexure P-

5), on which, the office of State Information Commission Haryana had written a letter dated 24.04.2023 to the SPIO-cum-Executive Officer, Municipal Council, Charkhi Dadri and yet the required information has not been supplied.

4. Learned counsel for the petitioner has submitted that at this stage, the petitioner would be satisfied in case a direction is issued to respondent No.1 to expeditiously decide the matter in a time bound manner and to take an appropriate action in accordance with law.

5. Learned State counsel has submitted that every effort would be made by respondent No.1 to expeditiously decide the matter.

6. Keeping in view the above-said facts and circumstances, the present writ petition is disposed of with a direction to respondent No.1 to consider the application dated 18.04.2023 (Annexure P-5), filed by the petitioner and the same be done, preferably, within a period of three months from the date of receipt of certified copy of this order and appropriate action in accordance with law be taken in case the pleas raised by the petitioner are found to be meritorious.

July 14, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No