

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Date of decision: 27th February, 2023

(1) CWP No. 2425 of 2018

Naresh Kumar

Petitioner

Versus

State Information Commissioner and others

Respondents

(2) CWP No. 16445 of 2018

Sanjay Yadav

Petitioner

Versus

State Information Commissioner and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. V.P. Sangwan, Advocate for the petitioner in
CWP No. 2425 of 2018.
Mr. Jagdish Manchanda, Advocate for the petitioner in
CWP No. 16445 of 2018.
Mr. Samarth Sagar, Addl. AG, Haryana.

AVNEESH JHINGAN, J (Oral):

These two petitions are filed aggrieved of order dated 27.10.2017. The grievance raised by applicant-Naresh Kumar (petitioner in CWP No. 2425 of 2018) is that complete information was not supplied to him. On the other hand, the grievance raised by Sanjay Yadav (petitioner in CWP No. 16445 of 2018) is that the State Information Commission (for short, 'the Commission') erred in imposing the penalty.

The bare facts necessary for adjudication of the present

petitions are that the applicant filed an application dated 6.5.2016 seeking information from Municipal Committee, Loharu, District Bhiwani. The needful was not done. The applicant filed the first appeal and thereafter preferred the second appeal. The second appeal was disposed of on 27.10.2017 giving eight directions including imposition of penalty on three officials of the Municipal Committee and recommending an enquiry for delay in furnishing information and non-compliance of the order of the Commission.

The relevant portion of the impugned order is reproduced below:

“As the respondents are not present despite being issued bailable warrants, the Commission decided to speak to the Secretary, Municipal Committee who claimed that he is not aware of the Commission's directions passed on 14.9.2017. Upon being checked, it was abundantly clear that the Commission's orders were sent by email to him and other deemed SPIOs. This attitude of the respondent SPIO is unbecoming of a government official and such a non-seriousness cannot be allowed.”

From the perusal of the above, it is forthcoming that the order was passed at the back of the officials of Municipal Committee. The Commission had not recorded as to whether bailable warrants were executed or not. A strange procedure unknown to the statute was followed i.e. Members of the Commission talking to the Secretary, Municipal Committee. The matter does not end here. The stand taken by the Secretary, Municipal Committee was that they were not aware of the directions passed by the Commission on 14.9.2017. Without providing proper opportunity,

the Commission proceeded on the basis that order of the Commission was sent through mail to the Secretary, Municipal Committee and other deemed PSIOs.

Without commenting on the merits of the case considering that imposition of penalty was in violation of the principles of natural justice, the impugned order is set aside and the matter is remanded back to the Commission for deciding the matter fresh in accordance with law.

The petitions are disposed of.

Photocopy of the order be placed on the file of connected petition.

[AVNEESH JHINGAN]

JUDGE

27th February, 2023

mk

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No