

CWP-21758-2020 (O&M)

-1-

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

-.-

**CWP-21758-2020 (O&M)
Date of Decision :11.10.2023**

Ashwani Kumar

....Petitioner

Versus

State Information Commissioner, Punjab & Ors

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present : Mr. H.K.Aurora, Advocate for the petitioner.

Mr. Kunal Muthreja, AAG Punjab.

Mr. Amit Dhawan, Advocate for respondent No.2.

Mr. Parminder Singh, Advocate for respondent No. 3 and 4.

VIKAS BAHL, J. (Oral)

1. This is a Civil Writ Petition filed under Article 226 of the Constitution of India for the issuance of a writ in the nature of certiorari for quashing the impugned order dated 19.11.2020 (Annexure P-1) passed by respondent No.1 – State Information Commissioner, Punjab.

2. Learned counsel for the petitioner has submitted that by virtue of the impugned order, the State Information Commissioner, Punjab directed the SPIO to supply attested copies of the information with respect to point Nos.1 to 3, 5, 9, 11 and 12 of the RTI application to be sent through registered post. It is submitted that the information sought at point Nos. 6 to 8, 10, 13 and 14 of the RTI application has been denied being personal information. It is further pointed

out that even the information at point Nos. 1 to 3, 5, 9, 11 and 12 is also personal

information inasmuch as in Point No.12, the information sought was whether the petitioner was ever charge-sheeted or served with notice by the Punjab Government and in point No.11, the information sought was as to how many Ex-India leaves and details of the expenditure which have been incurred by the petitioner on foreign tours. It is pointed out that the information regarding the qualification of the petitioner and the date of joining of the petitioner and the rank of the petitioner had also been sought. Learned counsel for the petitioner has relied upon a judgment of Hon'ble Supreme Court passed in case titled as **“Girish Ramchandra Deshpande Vs. Central Information Commissioner and others”**, dated 03.10.2012 in Special Leave Petition (Civil) No. 27734 of 2012, particularly paragraph 13 of the said judgment to contend that copies of show cause notices and orders of censure/punishment etc. qualify as personal information as defined under clause (j) of [Section 8\(1\)](#) of the Right To Information Act, 2005 and that the performance of an employee/officer in an organization is primarily a matter between the employee and the employer and any information regarding the same would fall within the definition of ‘Personal Information’, the disclosure of which, has no relationship to any public activity or public interest. It is submitted that only in exceptional cases where larger public interest justifies the said disclosure, the same can be allowed. It is argued that a perusal of the impugned order would show that the same is cryptic and non-speaking inasmuch as no reason has been given for directing the SPIO to provide the information on the said points. It is submitted that there is no adjudication to the effect as to whether the information sought vide the said points is personal information or not and in case the same is personal information, then whether the same is still required to be supplied in public interest or not. The relevant portion

of the impugned order dated 19.11.2020, which has been highlighted by the learned counsel for the petitioner is reproduced as under:-

“ The SPIO is directed that the attested copies of sought for information regarding point Nos.1 to 3, 5, 9, 11 and 12 of the RTI application be sent to the appellant through registered post within a week and a copy of the same be sent to the Commission for compliance.

*Both the parties should connect through **CISCO WEBEX MEETINGS Software (Meeting No.912442397)** on the next date of hearing i.e. **22.12.2020 at 11.30 A.M***

Dated : 19.11.2020

*(Avtar Singh Kaler)
State Information Commissioner, Punjab”*

3. Learned counsel for the petitioner has submitted that at any rate, the impugned order deserves to be set aside to the extent that SPIO has been directed to supply the information with respect to point Nos. 1 to 3, 5, 9, 11 and 12 of the RTI Act and the case be re-decided by the Commission.

4. Learned counsel appearing for respondent No. 2 has submitted that it would be in the larger public interest in case the information is supplied. However, the counsel does not dispute the fact that there is no observation in the impugned order on the aspect of the information being personal or not or there being any larger public interest or not in supplying the same and has submitted that in view of the same the State Information Commissioner be directed to re-consider the matter.

5. Learned counsel appearing on behalf of respondent No. 1 as well as on behalf of respondent Nos.3 and 4 have also submitted that they have no objection to the said course of action.

6. This Court heard learned counsel for the parties and has perused the paper book.

7. Keeping in view the facts and circumstances, more so the fact that the impugned order passed by the State Information Commissioner, Punjab is cryptic and non-speaking qua the direction given to the SPIO to provide the information under point Nos. 1 to 3, 5, 9, 11 and 12 of the RTI Act and the same is thus set aside to the said extent and the State Information Commissioner, Punjab is directed to pass a fresh speaking order after considering the arguments raised by all the parties concerned. While passing the speaking order, the State Information Commissioner, Punjab shall also take into consideration the judgments passed by this Court in *CWP-17672-2023 titled as 'Rajwinder Singh Vs. State of Punjab and others'* and the judgment *dated 13.07.2023 passed in CWP-1877-2022 titled as 'Gagnish Singh Khurana Vs. State of Punjab and Others'* as well as the judgment *dated 21.07.2023 passed in CWP-15500-2023 titled as 'Gopal Krishan Gupta Vs. Central Information Commission and Others.'*

8. The parties are directed to appear before the State Information Commissioner, Punjab on **18.10.2023** and the State Information Commissioner, Punjab would, after hearing all the parties, re-decide the Appeal Case No.2601 of 2020 as expeditiously as possible preferably within a period of three months from 18.10.2023 by passing a speaking order.

CWP-21758-2020 (O&M)

-5-

9. It is, however, made clear that this Court has not given any final opinion on the merits of the case and it would be open to the State Information Commissioner, Punjab, to decide the case independently in accordance with law after hearing all the parties.

10. In view of the above, the present petition is disposed off. Pending applications, if any, also stand disposed off.

11.10.2023
tripti

(VIKAS BAHL)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO