

104

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-5816-2024
Date of decision: 13.03.2024

Mahipal

...Petitioner

Versus

State Information Commission, Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ketan Antil, Advocate for the petitioner.

Ms. Rajni Gupta, Addl. A.G., Haryana.

VIKAS BAHL, J. (ORAL)

1. This is a Civil Writ Petition filed under Article 226/227 of the Constitution of India for the issuance of a writ in the nature of certiorari for setting aside the impugned order dated 14.07.2022 (Annexure P-5) and order dated 15.11.2023 (Annexure P-6) passed by respondent No.1.
2. Learned counsel for the petitioner has submitted that the petitioner had moved an application under the Right to Information Act, 2005 (hereinafter to be referred as “the RTI Act”) and had sought information on 27 points. It is further submitted that when the requisite information was not provided, the petitioner filed a complaint which was converted into an appeal under Section 19(3) of the RTI Act by the State Information Commissioner and that the State Information Commissioner

did not proceed in the matter in accordance with law and adjudicated the matter in an omnibus manner and disposed of the appeal on 14.07.2022. It is submitted that the order dated 14.07.2022 is contrary to the law laid down by this Court in **CWP-17672-2023 titled as Rajwinder Singh Vs. State of Punjab and others decided on 16.08.2023**. It is also submitted that although the subsequent order dated 15.11.2023 is partly in favour of the petitioner but since, the desired RTI information has not been provided thus, he would pray that subsequent order dated 15.11.2023 be also set aside.

3. Learned State Counsel has submitted that in case the matter is remanded back then respondent No.1 would decide the matter in accordance with law laid down by this Court in ***Rajwinder Singh's case*** (Supra).

4. This Court has heard learned counsel for the parties and has perused the record.

5. In ***Rajwinder Singh's case*** (Supra), this Court after considering various judgments had observed as under:-

“12. This Court has found that in a large number of cases, the authorities including the first Appellate Authority {(while adjudicating the first statutory appeal under Section 19(1)} and the second Appellate Authority {(while adjudicating the second statutory appeal under Section 19(3)} under the Act, have been passing cryptic and non-speaking orders in violation of the judgments passed by the Hon'ble Supreme Court and various High Courts and also in violation of the mandate of the Act of 2005. It is, thus, found necessary to give the following directions to the first Appellate Authority and second Appellate Authority under the Act of 2005 to clearly specify the following at the time of finally adjudicating the case:-

- i) *The points on which the information is sought by the applicant as per his/her application filed under the Act of 2005.*
- ii) *The point-wise reply with respect to the information sought.*
- iii) *A categorical finding as to whether the information on any of the points has been supplied or not and if supplied, the date on which it has been supplied.*
- iv) *In case, it is the stand of the authorities from whom the information is sought that the information sought under a particular point is not to be supplied on account of any bar contained in any provisions of the Act of 2005 or for any other reason, then, after recording the said stand and after considering the submissions made by both the parties with respect to said point/issue, return a finding with respect to the said issue/point.*
- v) *Any other observation which the authority deems fit in the facts and circumstances of the case to be recorded.*

13. *The Chief Secretary to the States of Punjab & Haryana and the Advisor to the Administrator, Chandigarh are directed to circulate the judgment passed in the present case i.e. 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**”, to all the authorities constituted under the Act for complying with the same.*

16.08.2023”

6. In the present case, a perusal of application filed under the RTI Act would show that the information on 27 points had been sought by the

petitioner whereas in the impugned order dated 14.07.2022 although it has been noticed that the complaint under Section 18(2) of the RTI Act filed by the petitioner was converted into an appeal under Section 19(3) of the RTI Act but it is not stated anywhere whether the SPIO was served or not. Moreover, from the said order, it is also not clear as to what efforts were made to serve the SPIO. Neither, the points under which the RTI information was sought have been enumerated nor any finding has been given as to whether the petitioner was entitled to information under the said points or not. Omnibus observations/directions have been given directing the respondents to provide complete information and in case the petitioner is not satisfied with the furnished information, he would be at liberty to file a rejoinder. Such an order is not sustainable as even in case a person has been proceeded against ex parte, an affirmative finding with respect to every aspect is required to be given so that the appeal is effectively decided rather than requiring the parties to file subsequent rejoinders/applications under Section 20 of the RTI Act. Even a perusal of Section 20(1) of the RTI Act would make it clear that the State Information Commission, at the time of deciding the complaint/appeal, in case the conditions in the said Sub Section are met, are required to impose a penalty etc. and the same should not be left for a subsequent stage. The order dated 14.07.2022 is thus, against law and against the judgment passed by this Court in ***Rajwinder Singh's case*** (Supra) and since the order dated 14.07.2022 is held to be against law thus, the subsequent order dated 15.11.2023 would also be required to be set aside.

7. Keeping in view the abovesaid facts and circumstances, the

present Civil Writ Petition is partly allowed and orders dated 14.07.2022 as well as 15.11.2023 are set aside and the State Information Commissioner, Haryana is directed to re-decide the complaint filed by the petitioner under Section 18(2) of the RTI Act which has been converted into an appeal under Section 19(3) of the RTI Act in accordance with law laid down by this Court in *Rajwinder Singh’s case* (Supra) as expeditiously as possible preferably within a period of six months from the date of receipt of certified copy of the present order.

13.03.2024
Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No