

CWP-8728-2024

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2024:PHHC:053091

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-8728-2024

Date of decision : 20.04.2024

Arpit Raheja

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Kshitij Bharati, 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 issuance of a writ in the nature of certiorari for quashing the orders dated 03.02.2023 (Annexure P-11) and 07.01.2022 (Annexure P-8) passed by the State Information Commission, Haryana, Chandigarh vide which the complaint and second appeal respectively filed by the petitioner have been disposed of by respondent no.2.

2. Learned counsel for the petitioner has submitted that vide RTI application (Annexure P-1), the petitioner has sought third party information and with respect to the same, the petitioner has filed the second statutory appeal, which has been disposed of in a cryptic manner and in violation of 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 further submitted that on the said short ground alone, the order dated

03.02.2023 deserves to be set aside and the matter deserves to be re-decided by the State Information Commissioner, Haryana.

3. Learned State counsel has submitted that in the present case, a perusal of the order dated 03.02.2023 would show that it has been observed that RTI application filed by the petitioner has been responded to by the SPIO by giving letter dated 24.05.2022 and as per the said letter dated 24.05.2022 (Annexure P-10), substantial part of the relief was declined in view of the provisions of Section 8(1)(e) and (j) of the Right to Information Act. It is further submitted that in case any third party information is to be provided, then the same has to be in a larger public interest and the information sought is not in a larger public interest. It is stated that however, the State Information Commissioner will re-decide the second statutory appeal filed by the petitioner, in accordance with the law laid down in **Rajwinder Singh's** case (supra).

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

5. This Court in the case of **Rajwinder Singh** (supra) after discussing the various judgments passed by the Hon'ble Supreme Court as well as this court, has held 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.”*

6. In the present case, the information sought by the petitioner is with respect to a third party i.e., M/s Bimla Automobiles. The second statutory appeal filed by the petitioner has been disposed of in the following terms:-

“The representative of the respondent SPIO stated that vide letter No.1229 dated 24.05.2022, the requisite reply / information has already been furnished to the complainant.

The Commission has heard the averments of the respondent SPIO and also perused the record of the case. The Commission duly observes that the RTI application has been suitably responded to in compliance with the Commission's order dated 07.01.2022. The appellant / complainant admitted to have received the same. However, in order to meet the ends of justice, the Commission decides to afford the appellant / complainant an opportunity to carryout inspection of relevant / permissible record within 15 days of the receipt of this order if he wishes

to do so.

In view of the above mentioned facts, the complaint is disposed of accordingly.

Announced. To be communicated.”

A perusal of the letter dated 24.05.2022 would show that substantial part of relief had been rejected by the SPIO, being barred under various sub sections of Section 8(1) of the RTI Act. Section 11 of the RTI Act 2005 provides the procedure where in case the authority is of the opinion that third party information is to be disclosed, then, notice is required to be issued to the said third party.

7. In the present case, the order of the State Information Commission is cryptic and non-speaking and does not meet the mandate of the judgment of this Court in ***Rajwinder Singh*** (supra). No final adjudication has been made as to whether the information sought is barred under Section 8(1) or not. Further, the impugned order is self contradictory inasmuch as on the one hand it has been observed that RTI application of the petitioner has been suitably responded to, and on the other hand opportunity has been granted to the petitioner for inspection of the relevant / permissible record. It was incumbent upon the State Information Commissioner to have given an affirmative finding as to whether the information sought is to be provided to the petitioner or not and the reasons for the said order after considering the arguments raised by both the sides. Specific reference to the relevant provisions of the Act was also required to be made and since the same has not been done, the impugned order cannot be sustained and accordingly, present petition is partly allowed and the order dated 03.02.2023 (Annexure P-11) is set aside and respondent no.2 is directed to re-decide the second statutory appeal, as expeditiously as

possible, preferably within a period of 4 months from the date of receipt of the certified copy of the present order by keeping in view the law laid down in ***Rajwinder Singh's*** case (supra) and also provisions of the Right to Information Act 2005 moreso, Sections 8 and 11 of the said Act.

(VIKAS BAHL)
JUDGE

April 20, 2024

Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No