

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-21744-2008

Date of decision : 21.03.2024

The Bhiwani Central Cooperative Bank Limited and others

... Petitioners

Versus

The State Information Commission and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Subhash Ahuja, Advocate and
Mr.Karamveer Ahuja, Advocate
for the petitioner.

Mr.Amandeep Joshi, DAG, 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 / mandamus for quashing the impugned order dated 31.07.2008 conveyed vide letter dated 11.08.2008 (Annexure P-7) whereby the respondent-State Information Commission has held the petitioner bank to be a Public Authority under the Right to Information Act, 2005.

2. In the present case, vide impugned order dated 31.07.2008 conveyed vide letter dated 11.08.2008 (Annexure P-7), the State Information Commission had held the petitioner bank to be a Public Authority under the Right to Information Act and accepted the appeal filed by respondent no.3. On 24.12.2008, the present petition was admitted and the operation of the impugned order was stayed. Thereafter on 21.03.2012, the case was listed and the Coordinate Bench of this Court was pleased to

pass the following order:-

*Present:- Mr. Subhash Ahuja, Advocate,
for the non-applicant-petitioner.
Mr. Harish Rathee, Sr. DAG, Haryana.
Mr. Ashok Kumar Sehrawat, Advocate
for applicant-respondent no.3.*

Counsel for the non-applicant-petitioner states that the judgment relied upon by the applicant-respondent for disposal of the writ petition, has been challenged in an appeal which is pending consideration. He further states that the operation of the said judgment has also been stayed and prays for some time to produce the copy of the order passed in LPA.

List for further consideration on 5.9.2012.

March 21, 2012

*(AUGUSTINE GEORGE MASIH)
JUDGE"*

A perusal of the same would show that the judgment relied upon by respondent no.3 for disposing of the case was stated to be challenged in LPA by the learned counsel for the petitioner with the further submission that the stay has been granted in the same. On 08.07.2013, the Coordinate Bench of this Court was pleased to pass the following order:-

"It is not disputed that the matter in issue is pending before a Division Bench of this Court in LPA No.1191 of 2011, titled as The Zenith Cooperative House Building Society Limited Ludhiana vs The State Information Commission, Punjab and others. Counsel for the petitioners is ad-idem that this matter should be adjourned sine die to await the decision of the said appeal.

Ordered accordingly.

*(AJAY TEWARI)
JUDGE*

July 08, 2013."

3. Learned counsel for the petitioner has submitted that the said LPA no.1191 of 2011 has been decided on 12.12.2013 and in the said case, the following order was passed:-

"For orders, see LPA No.1174 of 2021 (Punjab Cricket Association vs. State Information Commission, Punjab and another).

(Ajay Kumar Mittal)
Judge

December 12, 2013

(Jaspal Singh)
Judge”

4. It is submitted that the Division Bench of this Court vide order dated 12.12.2013 had allowed the LPA-1174-2011 and had passed the following directions:-

“8. Accordingly, while allowing the appeals, the following directions are issued:-

i) The orders passed by the State Information Commission (SIC) and the learned Single Judge in all these appeals are set aside. The matter is remanded to the SIC to decide the same afresh.

ii) The interim order shall continue till the disposal of the appeals by the SIC.

iii) All the pleas available to the appellants herein shall be allowed to be raised before the SIC. The SIC shall decide the matter afresh keeping in view the judgment of the Apex Court in **Thalappalam Ser. Coop Bank Limited's case** (supra) within six months from the date of receipt of a certified copy of this order.

iv) Each case shall be decided separately by referring to the facts involved therein.

v) The SIC shall not be influenced by anything which has been observed herein while deciding the matter afresh.

(Ajay Kumar Mittal)
Judge

December 12, 2013

(Jaspal Singh)
Judge”

5. Learned counsel for the petitioner has submitted that learned counsel for respondent no.3 had relied upon the judgment which has been set aside and the matter has been remanded in the above said terms and thus, the present impugned order also deserves to be set aside and the matter is to be remanded in the same terms as the judgments in LPA-1191-2011 and LPA-1174-2021.

6. None has appeared on behalf of respondent no.3 in spite of the fact that the Registry has informed respondent no.3 about listing of the

present case on three different dates including today.

7. Keeping in view the abovesaid facts and circumstances , the present writ petition is partly allowed, the impugned order dated 31.07.2008, conveyed vide letter dated 11.08.2008 (Annexure P-7), is set aside and the matter is remanded to the State Information Commissioner to decide the same afresh.

8. It would be open to all the parties to raise all pleas available to them before the State Information Commissioner and the State Information Commissioner, while deciding the matter afresh, would take into consideration the law laid down by the Hon'ble Supreme Court in Civil Appeal No.9017 of 2013 titled as “*Thalappalam Ser.Coop.Bank Limited and others v. State of Kerala and others*” decided on 7.10.2013.

9. It is made clear that this Court has not opined on the merits of the case and the State Information Commissioner would decide the case independently, in accordance with law, as expeditiously as possible.

(VIKAS BAHL)
JUDGE

March 21, 2024
Davinder Kumar

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