

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(101)

CWP-16602-2022

Date of decision: - 01.03.2024

Netarpal Singh

....Petitioner

Versus

Central Information Commission and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Amarbir Singh Salar, Advocate,
for the petitioner.

VIKAS BAHL, J. (ORAL)

1. This is a petition under Article 226/227 of the Constitution of India for issuance of a writ especially in the nature of certiorari to quash the order dated 27.04.2021 (Annexure P-4) and issue a writ in the nature of mandamus to direct the respondent No.2 to provide correct information as sought vide application dated 13.06.2019 (Annexure P-1) under the RTI Act, 2005.

2. Learned counsel for the petitioner has submitted that the petitioner had filed an application dated 13.06.2019 (Annexure P-1) seeking information and when the said information was not provided, he had filed first appeal and since the said information was not provided, then, he had filed the second appeal on 02.09.2019 (Annexure P-3) and the Central Information Commission by passing a cryptic and non-speaking order dated 27.04.2021 (Annexure P-4) has disposed of the

same. It is further submitted that in the said order dated 27.04.2021 (Annexure P-4), a reference has been made to the reply dated 27.08.2019 filed by the CPIO while disposing of the said appeal of the petitioner. It is stated that the said letter dated 27.08.2019 is not a response to the RTI application dated 13.06.2019 (Annexure P-1), but is a response to the complaint filed by the petitioner against one Subhash Chawla. It is further stated that order dated 27.04.2021 (Annexure P-4) is against the law laid down by this Court in case titled as “**Rajwinder Singh Vs. State of Punjab and others**”, ***passed in CWP-17672-2023, decided on 16.08.2023.*** It is further stated that at any rate, the impugned order dated 27.04.2021 (Annexure P-4) deserves to be set aside and the Central Information Commission be directed to reconsider the matter afresh.

3. This Court has heard learned counsel for the petitioner and has perused the paper-book.

4. Relevant portion of the RTI application dated 13.06.2019 (Annexure P-1) filed by the petitioner has been reproduced herein below:-

*“To,
The CPIO
Cantt Board Ambala*

Sub: RTI information Act, 2005.

Sir,

Please provide the following information of Sh. Subhash Chawla office Supdt. working as storekeeper period.

- 1. All copy of supply order A.K. Traders.*
- 2. All copy of bills A.K. Traders.*
- 3. All payment voucher of A.K. Traders.*
- 4. A.K. Traders Address & Sale Tax No.*
- 5. All copy of entry in the stock book A.K. Traders.*

6. *Comparative statement & items rate copy of A.K. Traders.*
7. *Please supply office order copy which period Subhash Chawla posed as storekeeper in Cantonment Board Ambala Cantt.*
8. *How much time Subhash Chawla worked the post of storekeeper.*
Postal order fees Rs.10 dated 11-05-19 I.P.O No.45F655248 enclosed here with.

Thanking you

Dated: 13.06.2019

*Yours faithfully,
sd/-
Name: Netarpal Singh
SK-276
Address: N.No.67,
Anand Nagar Bohe Road,
Ambala Cantt. 133001”*

A perusal of the same would show that information on eight points was sought by the petitioner and when the same was not provided, the first appeal was filed by the petitioner and since still no information was provided, he had filed a second appeal dated 02.09.2019 (Annexure P-3). The said second appeal was disposed of on 27.04.2021 by passing a cryptic and non-speaking order. The relevant portion of the said order is reproduced herein below: -

“Grounds for Second Appeal

No information has been provided by the CPIO.

Submissions made by Appellant and Respondent during Hearing:

The appellant’s representative submitted that she was not provided a suitable reply vide letter dated 27.08.2019. The CPIO submitted that a suitable reply was given vide letter dated 27.08.2019.

Observations:

Based on a perusal of the record, it was noted that the CPIO had provided a proper reply. The appellant's representative could not point out any deficiency in the reply given.

Decision:

In view of the submissions of the CPIO, the Commission finds no scope for any intervention in the matter and accordingly upholds the submissions of the CPIO. No further action lies.

The appeal is disposed of accordingly."

A perusal of the above order would show that the reliance has been placed upon a reply dated 27.08.2019 while disposing of the said second appeal. The reply dated 27.08.2019 has been annexed along with the present petition at page 18 and a perusal of the said reply would show that the same is a reply to a complaint which has been filed by the petitioner against one Subhash Chawla and is not a response to the RTI application dated 13.06.2019 (Annexure P-1) and the said fact is apparent from a bare reading of the said reply, in which, it has been specifically stated that the same is a response to the complaint filed by the petitioner against Subhash Chawla for embezzlement of government funds and the said complaint is dated 18.06.2019.

5. This Court in **Rajwinder Singh's case (supra)** after considering the law laid down in various judgments had given the following directions: -

"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. The impugned order dated 27.04.2021 (Annexure P-4) apart from being based on a wrong premise, cannot be said to be a speaking

order and accordingly, the present writ petition is allowed and the order dated 27.04.2021 (Annexure P-4) is set aside and the Central Information Commission is directed to decide the second appeal dated 02.09.2019 (Annexure P-3) filed by the petitioner afresh, as expeditiously as possible, in accordance with the judgment of this Court passed in **Rajwinder Singh's case (supra)**.

March 01, 2024
naresh.k

(VIKAS BAHL)
JUDGE

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