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

**209** **CWP-8029-2021 (O&M)**
**Date of decision : 28.01.2025**

**RAJBIR SINGH**

..... Petitioner

**VERSUS**

**STATE INFORMATION COMMISSION AND OTHERS**

..... Respondents

**CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

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Present :- Mr. Jawahar Lal Goyal, Advocate
for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

Ms. Nikita Goel, Advocate
for respondent No.4.

Mr. Akshit Mehta, Advocate for
Mr. Johan Kumar, Advocate
for respondent No.6.

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**Harsimran Singh Sethi, J. (Oral)**

1. In the present petition, the challenge is against the order dated 04.09.2019 (Annexure P-7) passed by the State Information Commissioner, Haryana, according to which, the penalty of Rs.25,000/- has been imposed upon the petitioner for not supplying the information and concerned DDO was asked to deduct the penalty from his salary.

2. Learned counsel for the petitioner submits that a bare perusal of the order would show that the State Information Commissioner himself is

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not sure whether petitioner has done only wrong as it has been written that in case, the petitioner submits the justification with the proof to the commission that delay did not occur on his part, the penalty will shift to Anand Swaroop, Executive Engineer, MC Yamunanagar. Learned counsel submits that such kind of an order cannot be passed especially when the penalty is to be paid in person by the violator of 2005 Act and therefore, due specific findings is to be recorded qua the delay attributed to a particular officer.

3. Learned counsel submits that after imposing the punishment of penalty vide order dated 04.09.2019 (Anneuxre P-7), the show cause notice was issued to the petitioner vide order dated 13.11.2019 hence, it cannot be said that the penalty will be imposed in preference to the show cause notice and the show cause notice issued to the petitioner under Section 20 of the RTI Act, 2005, is a post-decisional hearing, which is not permitted.

4. Learned counsel for the respondents have not been able to dispute the same.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. In the present case, the order imposing the penalty upon the petitioner has been passed on 04.09.2019 but the show cause notice under Section 20 of the RTI Act is being issued to him on 27.09.2019 after the imposition of penalty which cannot be sustained. Even otherwise the penalty has been imposed by the State Information Commissioner Haryana with the following observation:-

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> *"The penalty is being imposed upon Sh. Rajbir Saini, Municipal Engineer, on the basis of the written averments of Sh. Anand Swaroop, the then SPIO. In case, Sh. Rajbir Saini, ME, submits his justification with proof in the Commission that delay did not occur on his part, it will be automatically shifted to Sh. Anand Swaroop, Executive Engineer, MC, Yamunanagar."*

7. A bare perusal of the above reproduction would show that the State Information Commission is writing that in case there is a valid justification with the petitioner that the information was supplied then the penalty will shift to Anand Swaroop. This shows that the State Information Commissioner himself was not sure as to which officer is responsible for the delay. Once, the specific finding has not been given that the petitioner was responsible for the delay, no penalty could have been imposed.

8. Keeping in view the above, the petition is allowed and the order dated 04.09.2019 (Annexure P-7) is *set aside* and in case any amount was recovered from the salary of the petitioner, the same shall be refunded.

**(HARSIMRAN SINGH SETHI)**
**JUDGE**

**28.01.2025**
Rimpal

Whether speaking/reasoned Yes
Whether Reportable : No

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