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AT CHANDIGARH

CWP-10786-2020

Date of Decision : February 25, 2025

.. Petitioner

Versus

State Information Commission of Haryana and others .. Respondents

CWP-14391-2020

.. Petitioner

Versus

State Information Commission of Haryana and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.S. Kaushik, Advocate, for the petitioner(s).

Mr. Saurabh Girdhar, Assistant Advocate General, Haryana.

None for respondent No.3.

HARSIMRAN SINGH SETHI J. (ORAL)

1. By this common order, two writ petitions, the details of which have been given in the heading, are being disposed of as both the petitions involve the same question of law on similar facts.
2. In the present writ petitions, the grievance being raised by the petitioner is qua the order dated 27.05.2020 (Annexure P-23) and order dated 05.08.2020 (Annexure P-22) passed by the State Information

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Commission, Haryana. For the sake of convenience, facts are being taken from CWP No.10786 of 2020.

3. Learned counsel for the petitioner submits that the order dated 27.05.2020 (Annexure P-23) is cryptic as on the one hand, the penalty has been imposed of Rs.25,000/- and on the other hand, show cause notice dated 09.07.2019 issued to the petitioner has been dropped.

4. Learned counsel for the petitioner further submits that nothing has been mentioned by the respondents to show, as to why, the penalty has been imposed on the petitioner and despite the fact that in the impugned order, it has been mentioned that the show cause notice dated 09.07.2019 issued to the petitioner has been dropped, hence, the impugned order is in itself contradictory and is liable to be set aside on this ground alone.

5. Learned counsel for the petitioner further submits that once the power of imposing penalty has been given, then as a result of the power given, it is upon the power holder that reason has to be given as to how, the information supplied by the official concerned was delayed and how the delay was attributable to the officer upon whom the penalty is imposed and contrastly, in the present order, no such finding is recorded by the authority concerned before imposing the penalty upon the petitioner hence, the order is bad.

6. Learned counsel for the respondents submits that the complainant, on whose application the penalty has been imposed, is to defend the order.

7. Despite notice, respondent No.3 has not put in appearance to defend the order.

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

9. Once, under Section 20, the penalty has been imposed upon an officer accusing him of causing delay in release of information sought, the circumstances have to be explained while imposing the penalty as to how, the officer concerned was responsible for delay if any. It is only after holding the officer guilty for delay along with the reasons to be supported that the penalty can be imposed. In the present case, no such reasons have been given by the Information Commission before imposing penalty of Rs.25,000/- upon the petitioner.

10. Even otherwise, the order is contradictory. In the same order, the penalty has been imposed upon the petitioner keeping in view the show cause notice issued and in the same order, the same show cause notice has been dropped. This shows that there was no due application of mind by the authorities while passing the order imposing the penalty upon the petitioner.

11. Keeping in view the totality of the circumstances, the penalty imposed upon the petitioner is set aside.

12. The present writ petitions are allowed in above terms.

13. Any civil miscellaneous application pending if any, also stands disposed of.

14. A photocopy of this order be placed on the file of other connected case.

February 25, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No