

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

105

CWP-13580-2022 (O&M)

Date of Decision : September 11, 2025

AMARJIT

-PETITIONER

V/S

PUNJAB STATE INFORMATION COMMISSION AND ANR

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Karan Bhardwaj, Advocate
for the petitioner.

Mr. Gauravjit S. Patwalia, Advocate
for the respondent No.2.

KULDEEP TIWARI, J. (ORAL)

1. The Punjab State Information Commission, by drawing the order dated 21.09.2021, imposed a penalty of ₹ 25,000/- upon the petitioner (the then P.I.O.) for not supplying the requisite information on time. Fetching grievance from the order dated 21.09.2021, the instant writ petition has been filed thereagainst.

2. Succinctly stated, the respondent No.2 made an application dated 20.07.2020 under the Right to Information Act, 2005 (hereinafter referred to as the 'R.T.I. Act') seeking the following information from the petitioner/P.I.O., O/o Registrar, Co-operative Societies, Punjab, Chandigarh:-

“(iii) Detail of information required:

1. Copy of letter no. RCS/Admin-1/H.13/2099 dated 12.03.2020 as issued by the Admin Branch and the noting on vide which the same was dealt. Please provide a copy.

2. In addition to the above, provide the copy of the pages of the dispatch register from which the dispatch numbers of these letters no.RCS/Admin-1/ASG/2035 dated 12.03.2020 and letter No.RCS/Admin-1/H.13/2099 dated 12.03.2020 were taken.”

3. The information concerning Point No.2 was furnished to the respondent No.2, however, the information pertaining to Point No.1 was denied on the ground that it falls within the exemption prescribed under Section 8(h) of the R.T.I. Act. This denial of information pertaining to Point No.1 resulted in the filing of first appeal by the respondent No.1, which was dismissed by the First Appellate Authority vide order dated 14.10.2020. This dismissal order triggered the respondent No.2 to file the second appeal before the Punjab State Information Commission (hereinafter referred to as the ‘Commission’), which constituted the bedrock for the impugned order dated 21.09.2021.

4. What emerges from a studied survey of the impugned order is that, apart from the present R.T.I. application, the respondent No.2 had moved another R.T.I. application dated 18.03.2020 seeking certain information from the P.I.O., Cooperation Branch-I, O/o Special Secretary Cooperation. This information was provided to him vide letter dated 17.06.2020, and by way of said information, a copy of the letter dated 12.03.2020 was also provided to him. However, the file noting pertaining to the letter dated 12.03.2020, as sought under Point No.1 of the present R.T.I. application, was never furnished to him. During the pendency of the second appeal, the A.P.I.O. representing the petitioner, who was the then P.I.O., gave an assurance before the Commission on 27.01.2021 that the requisite information, i.e. the file noting, would be provided to the respondent No.2 within 15 to 20 days. However, after a lapse of approximately eleven

months, the Commission was informed that no such information/file noting existed. Taking note of the fact that an undertaking had initially been given to supply the information, but the existence thereof was subsequently denied, the Commission proceeded to impose a penalty of ₹25,000/- upon the petitioner by invoking the provisions of Section 20 of the R.T.I. Act.

5. Learned counsel for the petitioner submits that there was no deliberate intention on the part of the petitioner either to cause delay in providing the requisite information or to conceal information which otherwise ought to have been supplied to respondent No.2. He submits that, after furnishing an assurance before the Commission, the petitioner addressed several letters to the Superintendent concerned, who was the custodian of the apposite record, for providing the requisite information. After several correspondences, the Superintendent concerned informed the petitioner on 20.05.2021 that no such information, i.e. file noting, which led to the issuance of the letter dated 12.03.2020, was in existence in the record, and hence, could not be made available. Within three days of receiving this communication, the petitioner apprised the Commission of the same on 24.05.2021. Resultantly, a show-cause notice was issued to him. The reply/affidavit (Annexures P-23 and P-24) submitted by the petitioner in response to the show-cause notice also embody the aforesaid facts.

6. Learned counsel for the respondent No.2 submits that the requisite information, i.e. file noting, is being deliberately withheld from the respondent No.2. Despite an assurance rendered before the Commission to supply it, and a delay of approximately eleven months, the petitioner eventually denied the very existence of such file noting. He further submits that the letter in question was issued pursuant to directions passed by this

Court in LPA-150-2020. Therefore, it is implausible that such a letter was issued without any corresponding noting on the official file.

7. This Court has heard, at length, the submissions made by learned counsel for the contesting litigants. The Court is examining only the following issues:

(i) Whether the information sought by respondent No.2 falls within the ambit of the R.T.I. Act;

(ii) Whether there was any deliberate delay on the part of the petitioner in supplying the requisite information;

(iii) Whether the penalty imposed upon the petitioner under Section 20 of the R.T.I. Act is legally sustainable.

8. With regard to issue No. (i), there is no dispute between the contesting litigants that the information sought by the respondent No.2 is amenable to disclosure under the R.T.I. Act. As regards issues Nos. (ii) and (iii), this Court is of the view that, after giving an assurance before the Commission, the petitioner made efforts to procure and supply the requisite information to the respondent No.2. However, he was unable to do so, as the Superintendent concerned, who was the custodian of the apposite record, denied the existence of such information. The petitioner promptly apprised the Commission of this fact upon becoming aware of it. The petitioner's current stand before this Court continues to rest on the said communication from the Superintendent, stating that the desired information is not available in the record. The petitioner cannot be expected to create information that is non-existent and, therefore, cannot be held liable for delay or concealment. Accordingly, this Court is of the opinion that the penalty of ₹25,000/- imposed upon the petitioner deserves to be set aside. The impugned order is,

therefore, modified to the extent that the penalty of ₹25,000/- imposed upon the petitioner is hereby set aside.

9. As to whether the apposite file noting in respect of letter dated 12.03.2020 exists or not, the respondent No.2 shall be at liberty to agitate his claim in this regard before the appropriate authority/forum.

10. Disposed of accordingly.

11. Pending application stands disposed of accordingly.

September 11, 2025
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No