

**CWP-18064 of 2019****1****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CWP-18064 of 2019****Date of Decision: March 20, 2025****Vijay Kumar****.... Petitioner****Versus****State Information Commission and others****.... Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: - Mr. J. S. Dahiya, Advocate for the petitioner.

Mr. Hitesh Pandit, Addl.A.G., Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present writ petition the challenge is to the order dated 17.05.2018 (Annexure P-8) by which, after the receipt of information, the proceedings were closed by the State Information Commission, Haryana. The present petition has been filed with the grievance that rather than closing the case, penalty to the tune of Rs. 25,000/-should have been imposed upon the official concerned as there was delay in release of the information.

2. Learned counsel for the petitioner argues that penalty should be imposed upon the guilty official, who did not supply the information to the petitioner within time.

3. Learned counsel for the respondent submits that while filing the present petition, the officer against whom allegations are being made that the information was supplied late and he should have

been impleaded as a party to the present petition but no State Public Information Officer has been impleaded, much less by name and therefore, after expiry of eight years, the prayer of the petitioner cannot be accepted as, the officer against whom the claim is made, is not a party.

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

5. The only assertion of the petitioner is that the State Information Commission should have been imposed the costs/penalty under Section 20 of the Right to Information Act, 2005 (hereinafter referred to as 'the 2005 Act') upon the SPIO which has been not done while considering the claim of the petitioner for the grant of information. It may be noticed that jurisdiction is given to the tribunal to impose penalty under Section 20 of the 2005 Act but the same can only be done after issuance of notice. In the present case no such notice under Section 20 of 2005 Act was given to any one and the State Information Commission was satisfied that information has been released to the petitioner.

6. Further, before this Court also a prayer is that the penalty to the tune of Rs.25,000/- should have been imposed upon the State Public Information Officer who did not supply the information. No such officer has been impleaded either by designation or by name so that plea of such officer should be heard before deciding the claim of the petitioner.

7. It is a conceded position that in case any relief is being asked against any official, the said official need to be a party to the petition so that the defence, if any, of such officer could be heard. The said question of law has already been settled by Hon'ble Supreme Court of India in **Civil Appeal No. 4258 of 2022** titled as **Ram Kumar Vs. State of Uttar Pradesh & other** decided on 28.09.2022.

Relevant para Nos. 8 &9 are extracted hereunder:-

“This Court in the case of Mumbai International Airport Private Limited (supra) had an occasion to consider as to who is a necessary party to the proceedings. It will be relevant to refer to paragraph 15 of the said judgment, which reads thus:

“15. A “necessary party” is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. If a “necessary party” is not impleaded, the suit itself is liable to be dismissed. A “proper party” is a party who, though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be made. If a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him, against the wishes of the plaintiff. The fact that a person is likely to secure a right/interest in a suit property, after the suit is decided against the plaintiff, will not make such person a necessary party or a proper party to the suit for specific performance.”

9. It could thus be seen that a necessary party is a person in whose absence no effective decree could be passed by the Court. It has been held that if a “necessary party” is not impleaded, the suit itself is liable to be dismissed.”

8. Concededly, no one has been impleaded as a party to the present petition against whom the relief is sought, hence no order imposing the penalty can be passed against any officer who is not a party to the petition.

9. The present petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

March 20, 2025
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Whether speaking/reasoned	Yes
Whether Reportable	No