

6. CWP-28703-2024 (O&M)

AMANDEEP KAUR

.....Petitioner

VERSUS

PUNJAB STATE INFORMATION COMMISSIONER AND OTHERS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashish Pal Kaushal, Advocate with
Ms. Pallavi Bahl, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG Punjab.

None for respondent No.5.

HARSIMRAN SINGH SETHI, J. (Oral)

1. Present bunch of six writ petitions involve common question of law in the context of common set of facts and thus they are being decided by a common order.

2. Learned counsel for the petitioner argues that as according to the impugned order dated 16.04.2024, copy of which has been appended as Annexure P-7, a penalty of Rs.5000/-has been imposed upon the petitioner even though no such notice as is required under Section 20 of the Right to Information Act, 2005 was given to the petitioner in his name alleging him of non-supply of required information. Similar grievance is being raised by the same petitioner in all the cases.

3. Learned counsel for the petitioner submits that notice dated 24.01.2024 (Annexure P-6) required to be sent to officer from which information is asked was issued to the PIO-cum-BDPO Sh. Mohinder Singh

whereas, the penalty has been imposed vide order dated 16.04.2024 (Annexure P-7) on the petitioner on the asking of the Sh.Mohinder Singh that the information was to be released by the petitioner.

4. Learned counsel for the petitioner further submits that the requirement envisaged under Section 20 of the Right to Information Act, 2005 is that the officer to whom the penalty is imposed as punishment should be given the opportunity of being heard by giving a show cause notice whereas, the said process envisaged in the said provision has not been followed in the facts and circumstances of the present bunch of cases.

5. Learned counsel for the respondent submits that the impugned order dated 16.04.2024 (Annexure P-7) has been passed by the Commissioner and not by the State and also further submits that nothing has come on record to show that the show cause notice was issued to the petitioner before passing the impugned order.

6. I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

7. A bare perusal of the above would show that Section 20 of the Right to Information Act envisages imposition of penalty in case the information required by an applicant is delayed, and as per the provision of RTI Act, 2005, the said penalty can only be imposed after giving due opportunity of hearing to the officer concerned who was supposed to give the information but has delayed the same. In the present case, the averment made by counsel for the petitioner that the petitioner has given the information within a period of 5 days, has gone un rebutted.

8. Not only this, a bare perusal of the impugned order dated 16.04.202 (Annexure P-7) would clearly show that no notice was given to the petitioner which is a condition pre-requisite under Section 20 of the Right to Information Act, 2005 before imposing punishment of fine as, the required notice was issued to one Sh. Mohinder Singh, who was present whereas, the penalty has been imposed on PIO-cum-BDPO Rajpura only by designation and not even by the personal description, which is even otherwise incorrect.

8. Keeping in view the the facts and circumstances of the present case, the imposition of penalty of Rs.5000/- upon the petitioner in all the cases without following the process envisaged under the Act of 2005 and the same is accordingly set aside.

9. Present petition is allowed.

10. Pending application, if any, also stands disposed of.

11. Photocopy of this order be placed on the files of other connected cases.

13-02-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO