



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(226)

CWP No. 26963 of 2018 (O&M)

Date of Decision : 07.01.2025

Rajnish Garg

...Petitioner

Versus

State of Haryana and others

...Respondents

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

Present: Mr. Amrinder Pratap Singh, Advocate for the petitioner.

Mr. Gaurav Jindal, Additional Advocate General, Haryana.

Ms. Nikita Goel, Advocate for respondent No. 3-DHBVNL.

None for respondent No. 4.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the order dated 14.08.2018 (Annexure P-14) by which the petitioner has been imposed a penalty of ₹12,500/- to be deposited with the Government Treasury passed under the Haryana Right to Information Rules, 2009.

2. Learned counsel appearing on behalf of the petitioner submits that certain information was sought by respondent No. 4. Whatever information was available with the petitioner, the same was given to the respondents upto 21.04.2017 and the rest of the information sought was not available with the office where the petitioner was working and the same was directed to be collected and supplied to the applicant.



3. Learned counsel for the petitioner submits that the petitioner was transferred from the post in question on 03.07.2017 and thereafter, more information which was sought was collected at the instance of the petitioner, was received by the department and the said information was extended to respondent No. 4 but, as the supply of information was delayed, the penalty of ₹12,500/- was imposed on petitioner, which is arbitrary and illegal as nothing has come on record that the information available was not supplied to the respondents, especially when the petitioner made all the efforts to collect the information to be supplied to the applicant-respondent No. 4. Learned counsel for the petitioner submits that the information sought by applicant was received by the department after the transfer of the petitioner from the post in question, hence, for the non-supply of the information to the respondents which was not available with the petitioner upto the date of his posting in the concerned department, no penalty could have been imposed and rather all these facts have been ignored by the State Information Commissioner Haryana while passing the order dated 14.08.2018 (Annexure P-14).

4. Learned counsel for the respondents has not been able to dispute the fact that the petitioner only remained in the office concerned from 24.03.2017 to 03.07.2017 and the information sought by the applicant-respondent No. 4 on certain aspects was not available with the petitioner and was sought to be collected by him and the same was given to the applicant, hence, as there was a delay, the penalty was imposed under Section 20(1) of the Right to Information Act, 2009.



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

6. The penalty can be imposed in case the information available is not extended to the applicant. Where any information is to be collected and then extended to the applicant concerned, the same cannot be given unless and until the same is received by the State Public Information Officer.

7. In the present case, the information which was supplied to the applicant on 23.08.2017 was not available with the State Public Information Officer i.e. the petitioner and the same had only been received after the transfer of the petitioner from the said post. Once, there is no recording of a finding by the State Information Commissioner that information was delayed intentionally despite the fact that the same was available with the petitioner, the imposition of the penalty is not at all warranted.

8. Further, the required information was given to the applicant after the same was collected and was received in the concerned office after the transfer of the petitioner, hence, giving of the said information after a delay of one month, cannot be attributed to the petitioner.

9. Keeping in view the above, the penalty imposed by the State Information Commissioner upon the applicant in the facts and circumstances of the present case is not at all warranted and the said penalty is set-aside. In case, the said penalty has been deposited by the petitioner, the same be refunded by the State within a period of four weeks of the receipt of copy of this order.

10. Petition is disposed of in above terms.



11. Pending miscellaneous application, if any, also stands disposed of.

January 07, 2025
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No