



CWP-28458-2023 and other connected cases :1:

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

208 (3 cases)

CWP-28458-2023 (O&M)

Date of decision : 03.03.2025

HEMANT KUMAR

..... Petitioner

VERSUS

STATE INFORMATION COMMISSION HARYANA AND OTHERS

..... Respondents

2.

CWP-28627-2023 (O&M)

HEMANT KUMAR

..... Petitioner

VERSUS

STATE INFORMATION COMMISSION

..... Respondent

3.

CWP-28644-2023 (O&M)

HEMANT KUMAR

..... Petitioner

VERSUS

STATE INFORMATION COMMISSION HARYANA AND OTHERS

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present :- Mr. Pawan Malik, Advocate
for the petitioners (in all cases).

Mr. Gaurav Jindal, Additional AG, Haryana.

Mr. Baldev Raj Mahajan, Senior Advocate with
Ms. Nikita Goel, Advocate for
for respondents No.2 to 4 in all cases.

Harsimran Singh Sethi, J. (Oral)

1. In the present petitions, the challenge is to the order dated 25.09.2023 passed by the State Information Commission, Haryana copy of which has been appended as Annexure P-6 to the effect that the Commission

**CWP-28458-2023 and other connected cases :2:**

had delegated the power to the Chief Engineer Operation DHBVN, Hisar to initiate an enquiry as to whether, the information sought by the petitioners vide application dated 10.01.2023 has been provided to them or not.

2. Learned counsel for the petitioners submits that the power of conducting enquiry which is envisaged under Section 18 of the Right to Information Act, 2005 (hereinafter referred to as 2005, Act) can only be done by the Commission and the same cannot be delegated to anyone keeping in view the specific powers given to the Commission under Section 18 of 2005 Act. Hence, it is the prayer of the petitioner that the order dated 25.09.2023 (Annexure P-6) passed by the Commission to the effect that the power of enquiry has been delegated to the Chief Engineer to conduct the same and submit the report is liable to be set aside with the further direction that in case it is found that an enquiry is needed to find out the truth as to whether the information sought has been supplied to the petitioners or not, be done by the Commission itself.

3. Learned senior counsel appearing on behalf of the respondents submits that the Chief Engineer is only complying with the impugned order dated 25.09.2023 (Annexure P-6) passed by the Commission and further submits that once an order has been passed by the Commission delegating the power of conducting enquiry to the Chief engineer, the Chief Engineer is therefore conducting the enquiry.

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

5. The only question which arises for the determination before this

**CWP-28458-2023 and other connected cases :3:**

Court is whether, the State Information Commission or the Central Information Commission, has been provided with the power to delegate the conduct of the enquiry as is envisaged under Section 18 of the 2005 Act or not. In order to appreciate the same, Section 18 of the 2005 Act is reproduced hereunder for the ready reference:-

“18. Powers and functions of Information Commissions.—(1)

Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,-

(a) who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;

(b) who has been refused access to any information requested under this Act;

(c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;

(d) who has been required to pay an amount of fee which he or she considers unreasonable;

(e) who believes that he or she has been given incomplete, misleading or false information under this Act; and

(f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

(2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(3) The Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter

**CWP-28458-2023 and other connected cases :4:**

under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavit;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing summons for examination of witnesses or documents; and

(f) any other matter which may be prescribed.

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.”

6. A bare perusal of the above Act would show that the power to conduct the enquiry has been given to the Central Information Commission as well as State Information Commission under Section 18(2) of 2005 Act.

7. Further, it has been mentioned that under Sub Section 3 of Section 18 of 2005 Act, the Central Information Commission or the State Information Commission have been given with same power as is vested in the Civil Court while trying a suit under the Code of Civil Procedure 1908 with respect of certain circumstances. This shows that once such power has been given to the Information Commission which are vested in the Civil Court while conducting the inquiry, the same has to be interpreted by construing that the said powers can only be exercised by the Commission and the same cannot be delegated to third party in any manner.



CWP-28458-2023 and other connected cases :5:

8. The delegation of power of conducting enquiry which has been done by the State Information Commission vide impugned order dated 25.09.2023 is beyond it's jurisdiction. In case, power to conduct the enquiry is delegated to a third party, the said party will also enjoy the powers envisaged under sub Section 3 of Section 18 which is not permissible as the same has only been given to the Central Information Commission or the State Information Commission. That being so, the objection being taken by the petitioners that the enquiry should be conducted only by the State Information Commission whether the information sought by the petitioners has been given to them or not, is correct and has to be accepted.
9. Keeping in mind the facts and circumstances in present case, the impugned order dated 25.09.2023 (Annexure P-6) is set aside, the Commission is directed that in case any enquiry is to be conducted with regard to the providing of information sought by the petitioners, the same shall be done by the Commission itself while exercising powers under Section 18 of 2005 Act.
10. Pending applications, if any, also stand disposed of accordingly.
11. A photocopy of this order be placed on the connected case files.

(HARSIMRAN SINGH SETHI)
JUDGE

03.03.2025
Rimpal

Whether speaking/reasoned	Yes
Whether Reportable :	No