

Punjab-Haryana High Court
Punjab-Haryana High Court
Vijay Dheer vs State Information Commission, ... on 4 March, 2013
IN THE HIGH COURT OF PUNJAB & HARYANA AT

CHANDIGARH

CWP No.4239 of 2013 (O&M)

Date of Decision: 04.3.2013.

Vijay Dheer --Petitioner

Versus

State Information Commission,

Punjab & others --Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. G.S. Lali, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J

The instant writ petition is directed against the order dated 17.1.2013 passed by the State Information Commission, Punjab, whereby the appeal preferred by respondent no.3 has been partly allowed and the Public Information Officer, office of Additional Deputy Commissioner (Development), Roop Nagar has been directed to divulge certain information pertaining to the petitioner.

Brief facts would require notice.

The petitioner is working as Assistant Project Officer in the office of Additional Deputy Commissioner (Development), Roop Nagar. Respondent no.3 invoked the provisions of Right to Information Act, 2005 (hereinafter referred to as the Act) and submitted an application dated 19.5.2012 seeking the following information as regards the petitioner:-

"(i) Date and post of joining in the department, appointment letter and documents submitted at the time of appointment.

(ii) Copy of certificates on the basis of which he was appointed.

(iii) Educational qualification, experience certificate or any CWP No.4239 of 2013 (O&M) -2-

other document on the basis of which he sought benefits (increment/financial benefits/promotion etc.) (iv) The office noting on the basis of which benefits as mentioned in column-III above.

(v) Any experience/Technical Education Certificate furnished by him.

(vi) If any reservation benefit was obtained, the information and copy of documents thereof.

(vii) Did he appear for any departmental examination during service, if so, then:

(a) Permission for appearing in such exam. (b) Copy of according approval.

(c) Information on any benefit/promotion on account of such exam.

(viii) Did he appear for any other exam then departmental during the service, if so, then:-

(a) Permission for appearing in such exam. (b) Copy of according approval.

(c) Copy of office attendance register during the period. (d) Information on any benefit/promotion on account of such exam.

(ix) Copy of any self declaration (News paper with higher official) made during the service.

(x) Documents on the basis of which he exchanged his name and the certificate on the basis of which he sought promotion or any other financial benefit.

(xi) Copy of documents of any complaint or inquiry against him.

(xii) Copy of his complete service book.

(xiii) Complete information of any punishment if awarded by department."

Such information having been declined by the Public

Information Officer concerned, necessitated the filing of appeal by

respondent no.3 before the State Information Commission. The appeal has CWP No.4239 of 2013 (O&M) -3-

been disposed of vide impugned order in terms of issuance of directions to

the Public Information Officer, respondent no.2 to provide part of the

information sought for. The operative part of the impugned order dated

17.1.2013 reads in the following terms:-

"(i) The present complaint qua the information and documents sought by the applicant vide his RTI Application dated 19.5.2012 sought at point nos. (i), (ii), (v), (vi), (vii-a,b & c) (except clause (d), (vii, a, b & c) (except d) is accepted in totality.

(ii) The present complaint qua the information and documents sought by the applicant vide his application sought at point nos. (iii), (iv), (vii-d), (viii-d), (ix), (xi), (xii), (xiii) is dismissed, being hit by Section 8 (i) (j) of the RTI Act, 2005, considering the same to be personal information the disclosure of which has no relationship to any public activity or interest, and the same would cause unwarranted invasion of the privacy of the individual.

(iii) The present complaint qua the information and documents sought by the applicant vide his application sought at point no.(x) is accepted only to the extent of providing copies of the "Certificates on the basis of which he sought promotion."

Learned counsel appearing for the petitioner has sought to find

fault with the impugned order by contending that the same clearly amounts

to an invasion of the privacy of an employee i.e. the petitioner. Counsel

would submit that the impugned order has been passed in violation of

Section 8 clause (1) sub clause (j) of the Act as the same was clearly

covered under such exemption clause. It has further been argued that the

information that had been sought by respondent no.3 qua the petitioner was

only in furtherance of a personal vendetta and a grudge that the private

respondent held against the petitioner. It has been argued that the State CWP No.4239 of 2013 (O&M) -4-

Information Commission has erred in passing the impugned order inasmuch

as the aspect justifying the disclosure of the information directed to be in

public interest has not even been dealt with.

The submissions raised by learned counsel appearing for the

petitioner and the validity of the impugned order dated 17.1.2013 passed by

the State Information Commission, Punjab would require examination in the

light of the relevant statutory provisions contained in the Act. Section 2 sub

clause (f) defines "Information" and such term means material in any form

including records, documents, memos, e-mails, opinions, advises etc. held

in any electronic form and information relating to any private body, which

can be accessed by a public authority under any of the law for the time being enforced. "Right to Information" has been defined under Section 2 (j) and means the Right to Information accessible under this Act, which is held by or under the control of any public authority. Under Section 3 all citizens of the country have been vested with the right to have information subject to the provisions of the Act itself. Section 6 regulates a request made for obtaining information. Under Section 6 sub clause (2) the applicant making a request for information is not required to give any reason for requiring the information or to furnish any other personal details except those that would be necessary for contacting him. Section 8 provides for exemptions from disclosure of information. Section 8 clause (1) sub clause (j) would be relevant for the present case and reads in the following terms:-

"8. Exception from disclosure of information- (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen-

xxx xxx xxx xxx

(j) information which relates to personal information the disclosure of which has not relationship to any public activity CWP No.4239 of 2013 (O&M) -5-

or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority as the case may be, is satisfied that the larger public interest justifies the disclosure of such information: Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person."

The petitioner, admittedly, is working on the post of Assistant Project Officer in the office of Additional Deputy Commissioner (Development), Roop Nagar and is as such holding a public post. The information that had been sought by respondent no.3 primarily related to the details of the joining of the petitioner in the department, the appointment letter, the copies of the certificates on the basis of which he was appointed etc. The information sought would certainly fall within the scope and ambit

of the expression "Information" as defined under Section 2 sub clause (f) of the Act.

The only question that would arise for consideration is as to whether the entire information sought by respondent no.3 would stand covered in the exemption clause as per Section 8 sub clause (j). The exemption under Section 8 clause (1) sub clause (j) would cover information which is in the nature of personal information and the disclosure of which would have no relationship to any public activity or interest or the disclosure of which would cause unwarranted invasion of the privacy of an individual. Even under such exemption clause the authority has been vested with the Central Public Information Officer/State Public Information Officer or the appellate authority as the case may be to even disclose such public information upon satisfaction that the larger public CWP No.4239 of 2013 (O&M) -6- interest would justify the disclosure of the same.

While examining the scope of an exemption clause under Section 8 of the Act, it would be useful to refer to the statement of objects and reasons of the Act itself. The object and reasons of the Act recite that the provisions of the Act are to ensure maximum disclosure and minimum exemptions consistent with the constitutional provisions and to provide for an effective mechanism for access to an information and disclosure by authorities. Still further the Act has been enacted in order to promote transparency and accountability in the working of every public authority.

The State Information Commission while passing the impugned order has attempted to strike a balance between public interest as also the privacy of the individual concerned i.e. the petitioner. The Public Information Officer concerned has been directed to provide such part of the

information sought by respondent no.3 which primarily relates to the mode of appointment and promotion of the petitioner to a public post. The basis of passing the impugned order by the State Information Commission stands disclosed in the impugned order itself in the following terms:-

"It is necessary in order to understand as to what is the larger public interest vis-a-vis personal information which would cause unwarranted invasion of the privacy of the individual. After considering all relevant aspects in the instant case, I find that the stand/order of the PIO Office ADC (D), Roop Nagar is not tenable. The PIO concerned has unnecessarily stretched the information sought as personal information about third party as unwarranted invasion on the privacy of the individual. A part of information/documents sought by the complainant, relates to the mode of appointment/promotion of a person on a public post, therefore, information/documents to that extent fall under the domain of CWP No.4239 of 2013 (O&M) -7-

larger public interest. The documents on the basis of which a person has sought an appointment in a public office becomes the documents of larger public interest."

The impugned order has been passed on valid and cogent reasoning and conforms to the scheme of disclosure under the Act. This Court does not find any basis that would warrant interference with the same.

The writ petition is, accordingly, dismissed.

Petition dismissed.

(TEJINDER SINGH DHINDSA)

JUDGE

04.3.2013.

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