

Punjab-Haryana High Court

Punjab-Haryana High Court

K.K.Sharma vs State Of Haryana And Others on 7 March, 2013

CIVIL WRIT PETITION NO.4930 OF 2011 1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CIVIL WRIT PETITION NO.4930 OF 2011

DATE OF DECISION: March 07, 2013

K.K.SharmaPetitioner Versus

State of Haryana and othersRespondents CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH
DHINDSA Present: Mr.Ravinder Malik, Advocate for the petitioner. Mr.Harish Rathee, Senior Deputy
Advocate General, Haryana.

Mr.BS Rana, Advocate for respondents 8 and 10. Mr.Shakti Kaushik, Advocate for

Mr.Vinod S.Bhardwaj, Advocate for respondent 9. <><><>

TEJINDER SINGH DHINDSA, J.

Counsel for the parties have been heard at length and pleadings on record have been perused in detail.

2. Denial of information to the petitioner upon having invoked the provisions of the Right to Information Act, 2005 (for short "RTI Act") has led to the filing of the instant writ petition.

3. Brief facts that would require notice are that the petitioner is working as Senior Executive Engineer with the CIVIL WRIT PETITION NO.4930 OF 2011 2 Haryana Power Generation Corporation Limited, Panchkula. He submitted an application dated Nil to the under Secretary, State Information Officer, office of Chief Secretary, Government of Haryana for supply of information relating to seven IAS officers. The information sought was in the following terms: "Subject: Request for supply of information under Right for Information Act, 2005. Relating to the following IAS officers as directed by Deputy Secretary, Government of Haryana, Personnel Department, Civil Sectt., Chandigarh, vide memo No.19/15/2009-1S(1). Dated 1.12.2009.

1. Shri Sanjeev Kaushal, M.D., H.P.G.C.L., Panchkula.

2. Shri Madhu Sudan Parshad, F.C., Chairman, H.P.G.C.L. -cum-Secretary Power.

3. Shri Jyoti Arora, IAS wife of Shri Rajiv Arora, IAS

4. Rajiv Arora, IAS, M.D., H.S.I.D.C., Panchkula

5. Vimal Chander, IAS, D.O.B. 30.6.1952, Director D.R.D.A., Chandigarh.

6. Shri Satya Parkash, T.L., D.O.B. 21.3.1976, posted at D.C. Rewari.

7. Ashok Lavasa, IAS, Office of Chief Secretary. Respected Sir,

Your goodself is requested to supply below

given information under above Act. I am enclosing necessary fees as per law of `50/- vide postal order no..... dated..... Please do the needful at the earliest for supplying the information relating to above given officers.

1. Please supply the name of the bank/banks in which salary of the officers is being sent with their account number against the name of each officer.
2. Please submit the copies of all transfer T.A.Bills CIVIL WRIT PETITION NO.4930 OF 2011 3 claimed by the officer with complete bills of truck etc.
3. Please supply the complete form 16 having detail office salary w.e.f. date of joining till November 2009.
4. Please supply the copies of G.P.F./P.P.F. Statement of officer Sr.No.1 to 7 w.e.f. date of joining to till March 2009.
5. Please supply the copy of the L.T.C.Bills claimed by the officer 1 to 7 during their service tenure along with receipts bill of Hotel.
6. Please supply the PAN number of the officer in which the income tax has been deposited by the D.D.O. Government of Haryana along with full detail of amount deposited month wise, year wise.

Please supply the above information, immediately. I will deposit the further required fees as per law.

Yours Sincerely,

K.K.Sharma son of Shri

B.K.Sharma, House No.

481, Sector-123, UE,

Kurukshetra."

4. Apparently, the State Public Information Officer-cum- Under Secretary, vide letter dated 14.1.2010, Annexure P8, informed the petitioner that consent of the Officers concerned with regard to disclosure of information had been sought and two officers had objected as regards supply of information citing the bar contained in Section 8 (1) (e) (j) of the RTI Act. The petitioner was also informed that response from the other officers was still awaited and, as such, it was not possible to supply the information sought. The petitioner preferred a first appeal before the Special Secretary to Government Haryana, Personnel Department (First Appellate Authority) and in terms of order CIVIL WRIT PETITION NO.4930 OF 2011 4 dated 20.5.2010, Annexure P12, the appeal was rejected by holding that the information sought was in the nature of personal information pertaining to the officers concerned and disclosure of the same would not serve any public interest. Even a second appeal preferred by the petitioner under Section 19(3) of the RTI Act has met the same fate by way of passing of an order dated 9.9.2010 passed by the State Information Commission, Haryana, Annexure P14. The present writ petition impugns the orders dated 14.1.2010, Annexure P8, passed by the State Public Information Officer, order dated 20.5.2010, Annexure P12, passed by the first Appellate Authority and the order dated 9.9.2010, Annexure P14, passed by the State Information Commission, Haryana rejecting the second appeal.

5. It has primarily been contended on behalf of the petitioner that the provisions of the RTI Act are aimed at ensuring access with regard to all actions of public officials and to check corruption in public life. It has been urged that the information under the provisions of RTI Act as regards the private respondents was only to ensure accountability and transparency in the conduct of Government officials. Challenge has been laid to the

impugned orders by stating that the information which otherwise should have been willingly and voluntarily disclosed and put in the public domain, has been deliberately denied during the course of precise judicial proceedings envisaged under the Act.

6. The replies filed on behalf of the private respondents weave a common thread stating that the action of the petitioner seeking information under the RTI Act is not bonafide and rather CIVIL WRIT PETITION NO.4930 OF 2011 5 stems from an oblique motive. It has been asserted on behalf of the respondents that even the instant writ petition has been filed in furtherance of the malafide intentions of the petitioner and just to tarnish the image of the private respondents. Stand, in a nut- shell, taken by the respondents is that the information sought for by the petitioner would be covered under the exemptions falling under Sections 8(1)(e) and 8(1)(j) of the RTI Act being purely personal in nature. Prayer for dismissal of the writ petition, accordingly, has been raised.

7. The short question that would arise for consideration in the present writ petition is as to whether the information sought by the petitioner would be covered under the exemption granted under clause (e) and (j) of Section 8 (1) of the RTI Act?

8. Section 8 (1)(e) and (j) of the RTI Act are extracted hereinbelow:

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

(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

(f) to (i) xxxxxxxxxx

(j) information which relates to personal information the disclosure of which has no

CIVIL WRIT PETITION NO.4930 OF 2011 6 relationship to any public activity 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;"

9. A perusal of the application submitted by the petitioner would reveal that the provisions of the Act have been invoked seeking information in the nature of the account number/name of the Bank in which the salary of the Officers is being sent, copies of TA bills, copies of GPF/PPF statements of the officers with effect from the date of their joining till March, 2009, copies of LTC bills and supply of PAN number of the officers along with full details of the Income Tax deposited year-wise.

10. The information sought would clearly be in the nature of personal information in respect of the private respondents and not relatable to the discharge of their duties in official capacity.

11. The conflict between the right to personal privacy and the public interest in the disclosure of personal information stands recognized by the legislature in terms of exempting purely personal information under Section 8(1)(j) of the RTI Act. Under such exemption clause, the disclosure may be refused if the request pertains to personal information, the disclosure of which has no relation to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual. A CIVIL WRIT PETITION NO.4930 OF 2011 7 Full Bench of Delhi High Court in the case of Secretary General, Supreme Court of India v. Subhash Chandra Agarwal, 2010(1) RCR (Civil) 764 while examining the scope and ambit of the exemption envisaged under Section 8(1)(j) of the RTI Act had held that personal information including tax returns/medical records etc. are not liable to be disclosed.

12. Learned counsel for the petitioner has not been able to make out any case as regards there being any larger public interest justifying the disclosure of the information sought that would out-weigh the right of privacy of the individuals concerned. This is precisely the reasoning adopted by the first Appellate Authority as also the State Information Commission while passing the impugned orders dated 20.5.2010, Annexure P12 and dated 9.9.2010, Annexure P14.

13. There is yet another aspect of the matter. The respondent-Commission has returned a finding that the petitioner had sought information not for the furtherance of any public interest or to bring about any transparency, but it was purely to settle personal scores with the private respondents. It has specifically been noticed in the impugned order dated 9.9.2010 that the petitioner held a personal grudge against some of the officials with regard to having been denied promotion while in service and in respect of other officers, he had a grievance that a land dispute pertaining to his family had not been handled properly. Accordingly, the Commission observed that the petitioner was seeking information with the clear object to denigrate the officers concerned. Such findings recorded by the CIVIL WRIT PETITION NO.4930 OF 2011 8 respondent-Commission do not carry any rebuttal by the petitioner in the instant petition.

14. On the contrary, the pleadings on record and, in particular, with reference to the averments contained in paras 3 to 9 of the writ petition would suggest that the petitioner has been allegedly denied his right of a fair consideration for promotion to the post of Superintending Engineer and there is a clear pointer towards categorizing the private respondents as corrupt and dishonest officials. Clearly, the provisions of the RTI Act would not be available to a disgruntled employee seeking information as regards public officials which is otherwise personal in nature on account of furtherance of a personal vendetta.

15. For the reasons recorded above, I find no infirmity in the impugned orders that would warrant interference in exercise of the extra-ordinary writ jurisdiction under Article 226 of the Constitution of India. The writ petition is, accordingly, dismissed. (TEJINDER SINGH DHINDSA)

March 07, 2013 JUDGE SRM

Note: Whether to be referred to Reporter? (Yes/No)