

HIGH COURT OF PUNJAB & HARYANA

Bench: JUSTICE VIKAS BAHL

Date of Decision: 25.01.2024

CWP-1680-2024

Arun Kumar Aggarwal ... PETITIONER

VERSUS

**The State Information Commission, Haryana and others ...
RESPONDENT(S)**

Legislation:

Article 226, 227 of the Constitution of India
Right to Information Act, 2005

Subject: Writ petition for quashing the order passed by the State Information Commission, Haryana, concerning the denial of information requested under the Right to Information Act.

Headnotes:

Writ Petition for Quashing Order – Petitioner sought quashing of the order passed by State Information Commission, Haryana, under Article 226/227 of the Constitution of India, which denied information requested under the Right to Information Act – Petitioner filed a writ in the nature of certiorari for non-compliance with the judgment in *Rajwinder Singh vs. State of Punjab and others* (CWP-17672-2023). [Para 1]

Non-compliance with Established Legal Principles – State Information Commission passed the impugned order without adhering to the guidelines laid down in *Rajwinder Singh's* case, which requires specific findings by appellate authorities under the Right to Information Act – Petitioner argued that the order was cryptic and non-speaking. [Para 2, 5]

Guidelines for Appellate Authorities under RTI – The High Court in *Rajwinder Singh's* case provided directives for first and second appellate authorities under the RTI Act, emphasizing the need for detailed, point-wise decisions on information requests, including reasons for non-disclosure if applicable. [Para 5]

Direction for Fresh Decision – High Court set aside the impugned order for being inconsistent with legal precedents – Directed the State Information Commission, Haryana to redecide the petitioner's appeal within three months, in accordance with the principles laid down in *Rajwinder Singh's* case. [Para 6]

Referred Cases:

- Rajwinder Singh vs. State of Punjab and others (CWP-17672-2023) decided on 16.08.2023
- Gagnish Singh Khurana Vs. State of Punjab and others (CWP-1877-2022) PH HC
- Gopal Krishan Gupta Vs. Central Information Commission and others (CWP-15500-2023) PH HC

Representing Advocates:

Mr. Abhinav Aggarwal for the petitioner

Ms. Rajni Gupta, Additional Advocate General, Haryana for the respondents

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the impugned order dated 09.10.2023 (Annexure P-7) passed by the State Information Commission.
2. Learned counsel for the petitioner has submitted that the petitioner has sought information under the Right to Information Act on five points and when the said information was not supplied, the petitioner had filed first statutory appeal and when the same was still not supplied, the petitioner has filed second statutory appeal dated 20.07.2023 (Annexure P4) and in the grounds of appeal, a detailed chart was reproduced specifically stating as to what information has not been supplied with respect to each point. It is stated that the State Information Commissioner vide impugned order dated 09.10.2023 (Annexure P-7) has not considered the said plea specifically raised in the grounds of appeal and has passed the impugned order in violation of the law laid down by this Court in **CWP-17672-2023** titled as “**Rajwinder Singh vs. State of Punjab and others**” decided on 16.08.2023 and has prayed that the impugned order be set aside and the State Information Commission, Haryana be directed to redecide the matter in a time bound manner after taking into consideration the law laid down by this Court in **Rajwinder Singh’s** case (supra).

3. Learned State counsel has submitted that the State Information Commission, Haryana, would reconsider the matter and decide the same afresh, in accordance with law laid down by this Court in **Rajwinder Singh's** case (supra) within a period of three months from the date of receipt of the certified copy of the present order.
4. This Court has heard learned counsel for the parties and has gone through the paper book.
5. This Court in **Rajwinder's** case (supra), a copy of which has been annexed as Annexure P-10 along with the present writ petition, has held as under:-

“12. This Court has found that in a large number of cases, the authorities including the first Appellate Authority {(while adjudicating the first statutory appeal under Section 19(1)} and the second Appellate Authority {(while adjudicating the second statutory appeal under Section 19(3)} under the Act, have been passing cryptic and non-speaking orders in violation of the judgments passed by the Hon’ble Supreme Court and various High Courts and also in violation of the mandate of the Act of 2005. It is, thus, found necessary to give the following directions to the first Appellate Authority and second Appellate Authority under the Act of 2005 to clearly specify the following at the time of finally adjudicating the case:-

- i) The points on which the information is sought by the applicant as per his/her application filed under the Act of 2005. ii) The point-wise reply with respect to the information sought.*
- iii) A categorical finding as to whether the information on any of the points has been supplied or not and if supplied, the date on which it has been supplied.*
- iv) In case, it is the stand of the authorities from whom the information is sought that the information sought under a particular point is not to be supplied on account of any bar contained in any provisions of the Act of 2005 or for any other reason, then, after recording the said stand and after considering the submissions made by both the parties **with respect to said point/issue, return a finding with respect to the said issue/point.***
- v) Any other observation which the authority deems fit in the facts and circumstances of the case to be recorded.*

*13. The Chief Secretary to the States of Punjab & Haryana and the Advisor to the Administrator, Chandigarh are directed to circulate the judgment passed in the present case i.e. **CWP-17672-2023** titled as “**Rajwinder Singh Vs. State of Punjab and others**” and the judgment dated 13.07.2023 passed in **CWP-1877-2022** titled as “**Gagnish Singh Khurana Vs. State of Punjab and others**” as well as the judgment dated 21.07.2023 passed in*

CWP-15500-2023 titled as “Gopal Krishan Gupta Vs. Central Information Commission and others”, to all the authorities constituted under the Act for complying with the same.”

A perusal of the above judgment would show that the first appellate authority as well as the second appellate authority has to give specific findings in accordance with the five points, which have been formulated in the abovesaid judgment. A perusal of the application filed by the petitioner would show that information was sought on five points and even in the grounds of appeal before the second Appellate Authority, a detailed chart in paragraph 5 was mentioned as to what all information under the various heads had not been supplied. The impugned order dated 09.10.2023 has not been passed in compliance with the judgment passed by this Court in ***Rajwinder Singh’s*** case (supra) and thus, the said order deserves to be set aside.

6. Keeping in view the above said facts and circumstances, the present petition is partly allowed and the impugned order dated 09.10.2023 being not in accordance with law laid down in ***Rajwinder Singh’s*** case (supra) passed by this Court, is accordingly set aside and the State Information Commission, Haryana is directed to redecide the appeal filed by the petitioner as expeditiously as possible preferably within a period of of three months from the date of the receipt of the certified copy of the present order.

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