

**(2014) 07 P&H CK 0041**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** CWP No. 18258 of 2008

Vimal Kumar Setia

APPELLANT

Vs

State of Punjab

RESPONDENT

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**Date of Decision:** July 11, 2014

**Acts Referred:**

- Right to Information Act, 2005 - Section 20

**Hon'ble Judges:** Gurmeet Singh Sandhawalia, J

**Bench:** Single Bench

**Advocate:** Gurdip Singh, Advocate for the Appellant; Aman Bahri, Addl. A.G, Advocate for the Respondent

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**Judgement**

G.S. Sandhawalia, J.

Challenge in the present writ petition is to the show cause notice dated 24.07.2008 (Annexure P5) and the order dated 26.09.2008 (Annexure P8), passed by the State Information Commissioner, Punjab, whereby it had directed the petitioner to deposit Rs. 25,000/-, as penalty, under the Right to Information Act, 2005 (for short, the "Act"), on account of delay in supplying the information.

2. A perusal of the paperbook would go on to show that respondent No. 3 had filed an application for supply of information. The petitioner had been directed to appear personally on 25.07.2008 to explain as to why action should not be taken against the Principal Information Officer u/s 20 of the Act. Thereafter also, an adjournment had been granted but the petitioner had not supplied the necessary information. Accordingly, show cause notice was issued on 01.08.2008 to the petitioner, who was serving as District Transport Officer, to appear before the Commission. The petitioner's defence was that the complainant-respondent No. 3 was not appearing and the complaint may be filed because of the said factor. Plea was also taken that no such information was sought for. On 24.07.2008, the office of the District Transport Officer, Amritsar communicated to the said Information Commission that information had been submitted and reply had been sent on 08.05.2008 and

15.05.2008 and the complaint may be filed. The Commission, on 01.08.2008, noticed that the petitioner was the Public Information Officer and therefore, initiated proceedings u/s 20 of the Act against him. The petitioner filed his reply that the complainant had not been appearing and his office had been representing the matter and Government officials had been harassed and made a request for dismissing the complaint in default. Accordingly, the State Information Commission passed the impugned order by holding that the attitude of the petitioner cannot be deprecated as the information was supplied after a period of one year and the maximum penalty of Rs. 25,000/- was, accordingly, imposed, which was to be recovered from the salary of the petitioner. Resultantly, the present writ petition has been filed.

3. Counsel for the State, in its counter-affidavit, has submitted that it is only a performatory party and no reply needs to be filed.

4. The above facts would, thus, go on to show that the petitioner has been guilty of the lapse as the information was supplied after a period of one year and a factual finding was recorded.

5. Counsel for the petitioner has vehemently submitted that the maximum amount of penalty has been imposed and the information had been supplied late because the petitioner had to perform multifarious activities. Reference is also made to Section 20 of the Act to submit that the total amount of penalty was not to exceed Rs. 25,000/- and proper opportunity of hearing should have been afforded.

6. A perusal of the impugned order would go on to show that the Commission had issued sufficient notices to the petitioner to file its reply. u/s 20 of the Act, notice was taken and reply was duly filed and on account of the defiant attitude adopted by the petitioner, led to passing of the impugned order. The conduct of the petitioner cannot, in any manner, be appreciated. However, keeping in view the fact that the petitioner had been performing other multifarious duties in addition to the transport work which read as under:

(1) As Returning officer for conduct of elections (Assembly/parliament/Elections).

(2) As Electoral Registration Officer for preparation of Votes (Assembly/Parliament elections).

(3) As Returning officer for Municipal Elections.

(4) As Executive Magistrate.

(5) As protocol officer because Amritsar is a very busy Distt. (being Golden Temple, Durgiana Mandir, Wagah/Attari Border and International Airport).

7. Section 20 of the Act provides that where the Public Information Officer, without any reasonable cause, does not furnish the information within the time specified or mala fide denies the request for information, penalty is to be imposed @ Rs. 250/-

per day, from the date the application is received till the date the information is furnished and the total amount of such penalty shall not exceed Rs. 25,000/-. That the amount of maximum penalty had been imposed under the Act, this Court is, thus, of the opinion that it would suffice, in the interest of justice, that amount of penalty is reduced to a sum of Rs. 15,000/-, in the facts and circumstances of the present case as in the present case, no mala fide intention, as such, is there and the petitioner has shown reasonable cause.

8. Accordingly, the present writ petition is partly allowed and the impugned order of the Commission is modified. The petitioner is directed to deposit a sum of Rs. 15,000/-, within a period of 4 weeks from today, failing which, the amount will be recovered from his salary/pay.