

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

LPA No. 145 of 2020 (O&M)

Date of decision: 25.01.2023

Dr. Jagrati Sharma

.....Appellant

Versus

State Information Commissioner, Haryana and others

.....Respondents

**CORAM:HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Shobit Phutela, Advocate,
for the appellant.

Mr. Ankur Mittal, Addl. A.G., Haryana,
with Mr. Saurabh Mago, AAG, Haryana.

Mr. Rajesh Bansal, Advocate,
for respondent Nos. 4 and 5.

Ritu Bahri, J.

This is an intra court appeal, under Clause X of the Letters Patent, against the judgment dated 06.03.2019 passed by the learned Single Judge, vide which the writ petition i.e. CWP-22358-2015, preferred by Dr. Jagrati Sharma-petitioner (appellant herein) against the order dated 27.07.2015 (Annexure P-6) passed by the State Information Commission, Haryana, has been dismissed.

Brief facts of the case are that the petitioner-appellant is employed as a Dental Surgeon at Uchana Lake Dispensary, Karnal. She lodged a criminal case bearing FIR No.24 dated 15.01.2015 at Police Station, Sadar, Karnal, under Sections 376, 420 IPC against respondent No.4-Dr. Vipul Gupta son of Satya Prakash Gupta, who is also working as a Medical Officer and is posted at Civil Dispensary, Mewat. In that case, charges were framed against respondent No.4 on 28.04.2015. As per appellant, with an

intention to harass, humiliate and tarnish her image, respondent No.4 had been filing false complaints against the appellant, including various applications under the Right to Information Act, seeking her personal information. In continuation of this, Shri Satya Prakash Gupta-respondent No.5 (father of respondent No.4) filed an application under the Right to Information Act, on 02.02.2015, out of vengeance and personal vendetta. The intent and purpose of this harassment is to pressurize the petitioner-appellant to enter into a compromise in the criminal case or to force her to withdraw the said FIR, registered against him. By filing the application dated 02.02.2015 (Annexure P-2) addressed to the Deputy Civil Surgeon-cum-State Public Information Officer, Karnal, respondent No.5 sought information which is absurd, irrelevant and uncalled for, which relates to the personal information of the petitioner-appellant. There is no public interest involved therein.

When no information was supplied by the Deputy Civil Surgeon-cum-State Public Information Officer, Karnal-respondent No.2, within the time stipulated, respondent No.5-Shri Satya Prakash Gupta filed his first appeal, in which third party comments were sought from the present appellant. Written objections were filed by her on 16.03.2015. Thereafter, parties were given personal hearing and order dated 13.04.2015 (Annexure P-5) was passed by the First Appellate Authority-cum-Civil Surgeon, Karnal, dismissing the appeal and rejecting the application filed by respondent No.5 on the ground that the information sought by him (respondent No.5) was related to personal information of the petitioner-appellant and it was filed with an intention to mentally pressurize her. Against the said order, respondent No.5 filed second appeal before the State

Information Commission, Haryana, which was decided on 27.07.2015 (Annexure P-6). It was ordered to supply some of the information, as sought for by respondent No.5. Petitioner-appellant challenged the said order by filing CWP No.22358 of 2015, which was dismissed by the learned Single judge of this Court vide impugned order dated 06.03.2019. Hence, the present appeal.

The appellant's main objection was that while passing the order dated 27.07.2015 (Annexure P-6), information which has been ordered to be supplied to respondent No.5 is her personal information and there is no public interest involved to provide the same.

As per the facts of the present case, information sought by respondent No.5 in his application dated 02.02.2015 (Annexure P-2) was as under:-

“Kindly supply the certified copy of the following information as under:-

1. Date of her appointment, place of posting during service.
2. Place and period of deputation, working hours, place of headquarter during deputation between 01.07.2014 to 31.12.2014.
3. Any type of leave availed during the period 01.07.2014 to 31.12.2014 along with the permission to leave the headquarter may be supplied.
4. Copy of her attendance register, movement register from 01.07.2014 to 31.12.2014 may be supplied.
5. The residential address of Karnal and receipt of house rent paid by Dr. Jagrati Sharma from 01.04.2013 to 31.01.2015, which was claimed in income tax return as Tax-Rebate/Deduction along with the copy of form-16 of said period may be supplied.
6. Copy of the complaint finding, enquiry report between Sh. Satyavan Pharmacist and Dr. Jagrati Sharma during their posting in Lake Dispensary may be supplied.
7. Copy of the complaint given to CMO, Narnaul or any other senior officer against Dr. Sanjay Bishnoi, SMO given by Dr. Jagrati Sharma during her posting under General Hospital, Narnaul along with finding and enquiry report may be supplied.”

The State Information Commission, vide order dated 27.07.2015 (Annexure P-6), directed to provide the following information to respondent No.5:-

“6. The Commission heard carefully the averments of both the parties and perused the record on the case file. The submissions of the third party were noted. The citations relied upon by the appellant and the third party were perused. The Commission is guided by the decision of the Hon'ble Apex Court in SLP (C) No.27734 of 2012, titled as *Girish Ramchandra Deshpande Vs. Central Information Commission and others*. Point-wise information sought by the appellant was discussed during hearing. Vide point 1 and 2, the appellant is seeking date of appointment and place of posting during service along with place and period of deputation, working hours, headquarter during deputation of the third party from 01.07.2014 to 31.12.2014, which is not personal information. This information is not personal information and cannot be denied. Vide point 3 and 4, the appellant is seeking copies of the leave applications availed by the third party along with attendance register and movement register for the period from 01.07.2014 to 31.12.2014. Since the leave applications may contain some personal information, copies of the leave applications are not allowed. However, the number and type of leave, along with dates be furnished to the appellant. Copy of the attendance register is related to the public activity, hence, permissible and cannot be denied to the appellant. Keeping in view the criminal case in view, information sought vide point 5 is denied. However, copy of the Form-16 minus PAN Number be furnished to the appellant. Information sought vide point 6 and 7 of the RTI application is not permissible as no larger public interest has been established and exemption is upheld. NO case is made out for initiating penal action under Section 20 (1) of the RTI Act, 2005 against the respondent SPIO as no *malafide* has been established against the respondent SPIO.”

Learned counsel for the appellant, while referring to the judgment passed by Hon'ble the Supreme Court in ***Girish Ramchandra Deshpande vs. Central Information Commissioner and others***, 2012 (4) RCR (Civil) 559, has argued that with respect to the employee, information such as memos, show cause notice, order of censure/punishment qualify to be personal information as per Section 8 (1) (j) of the Right to Information Act,

2005. The performance of an employee/officer is governed by the service rules, which fall under the expression “personal information” and disclosure of such information has no relationship to any public activity or public interest. He has referred to a Division Bench judgment passed by the High Court of Delhi in Dr. R.S. Gupta vs. Government of NCTD and others, LPA No. 207/2020 (decided on 31.08.2020), whereby the appellant Dr. R.S. Gupta had sought personal information along with school staff attendance register, under the Right to Information Act, 2005. The copy of the attendance register pertaining to the appellant was provided to him, however, his prayer for complete copies of school staff attendance register was rejected as it was exempted under Section 8 (1) (j) of the Act. The appeal preferred by Dr. R.S.Gupta (appellant therein) was dismissed by observing that the information regarding attendance record is personal information of a Government employee and attendance record is matter between the employee and the employer. All these aspects are governed by the service rules, which fall under the expression “personal information.”

Learned counsel for the respondent Nos.4 and 5 has argued that the information sought at point/serial Nos. 1 and 2 of the application dated 02.02.2015 (Annexure P-2) has been rightly ordered to be provided in view of the guidelines laid down by Hon'ble the Supreme Court in Girish Ramchandra Deshpande's case (supra). The information at point/serial Nos. 5, 6 and 7 has been rightly denied being a personal information. Hence, the judgment passed by the learned Single Judge does not suffer from any legal infirmity. He has referred to a judgment passed by this Court in Vijay Dheer vs. State Information Commission, Punjab and others, 2014 (1) RCR (Civil) 193, wherein the information sought was relating to

the details of the joining of the petitioner in the department, including the appointment letter, copies of the certificates on the basis of which, he was appointed etc. It was held that the said information would not amount to personal information as the information was being sought for appointment on a public post and this information would not fall under the exception of Section 8 (1) (j) of the Act.

Heard, learned counsel for the parties.

Reference, at this stage, can be made to the judgment passed in Vijay Dheer's case (supra). In that case, the petitioner was aggrieved of the order dated 17.01.2013 passed by the State Information Commission, Punjab, whereby information with regard to the date of joining in the department, appointment letter, copies of certificates on the basis of which, the petitioner was appointed, had been given. It was held that this information would be covered under the ambit of the expression "Information" as defined under Section 2, sub clause (f) of the Act. It was further observed that the petitioner was holding a public office and information was related to the mode of appointment and promotion of the petitioner to a public post. Hence, this information would not fall under Section 8 (1) (j) of the Act.

Hon'ble the Supreme Court in Girish Ramchandra Deshpande's case (supra) has observed as under:-

"13. We are in agreement with the CIC and the Courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in clause (j) of Section 8 (1) of the RTI Act. The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no

relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.”

In the facts of the present case, respondent No.5, through an application dated 02.02.2015 (Annexure P-2), sought information with regard to the date of appointment, place of posting etc. of the appellant. This issue has been examined by the Delhi High Court in Dr. R.S. Gupta's case (supra) and it has been held that the petitioner (therein) could take any information under the RTI Act with respect to his own appointment, which was personal to him, but he could not claim, as a matter of right, the information with respect to the attendance register of the staff of aided college or school. Before the Delhi High Court, the Department of Education had stated that w.e.f. 2008 onward, salary to employees of aided schools was disbursed through ECS and it was not necessary to send a copy of the attendance register along with salary bills for such disbursement. In this backdrop, the Department of Education could not be compelled to furnish such information under the RTI Act, 2005. Moreover, the record of other staff members of any aided school was the personal information of employees. It would also entail revealing medical and personal information of an individual. The attendance record is part of service record which is a matter between the employee and the employer and ordinarily these aspects are governed by the service rules, which fall under the expression “personal information”.

Keeping in view the above discussion and on applying the ratio of the aforesaid judgment to the facts of the present case, in our opinion, the

only information with regard to the date of appointment of the appellant can be supplied under the RTI Act, 2005. However, the information with regard to her place of posting, period of deputation, working hours, place of headquarter during deputation between 01.07.2014 to 31.12.2014, any type of leave availed during the period 01.07.2014 to 31.12.2014 along with permission to leave the headquarter, copy of her attendance register and movement register from 01.07.2014 to 31.12.2014, is relating to the information personal to her. This information is between the appellant and her employer and this would be subject to service rules and cannot be sought by respondent No.5 under the RTI Act, 2005. Even, copy of Form-16 and PAN card of the appellant cannot be given to respondent No.5 as such information is also personal to her and cannot be claimed by respondent no.5 under the RTI Act, 2005.

In view of the above discussion, the impugned judgment dated 06.03.2019 passed by the learned Single Judge and order dated 27.07.2015 (Annexure P-6) passed by the State Information Commission, Haryana, are set aside. It is directed that the official respondents will only provide information with regard to the date of appointment of the appellant to respondent No.5 and rest of the information, which has been directed to be provided vide impugned order dated 27.07.2015 (Annexure P-6), shall not be given.

Allowed accordingly.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

25.01.2023
ajp

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No