



Sh.Aditya Pandey,
H.No.174, Sector-21A,
Chandigarh.

Appellant

Versus

Public Information Officer,
O/o Addl. Chief Secretary
Deptt. Of Home Affairs & Justice, Pb.
Home Branch-4, Pb.Civil Sectt.-1
Chandigarh

Public Information Officer,
O/o Addl. Chief Secretary
Deptt. Of Home Affairs & Justice, Pb.
Home Branch-4, Pb.Civil Sectt.-1
Chandigarh

Respondent

Appeal Case No.1434/2019

Date of RTI Application	Date of Reply, if any of SPIO	Date of First Appeal made, if any	Date of order, if any of FAA	Date of Second Appeal/ Complaint
28.09.2018	Nil	09.01.2019	Nil	24.04.2019

Present: None

ORDER:

The appellant vide his application dated 28.09.2018 has sought the following information with reference to an inquiry conducted by the Commission headed by the Hon'ble Justice J.S Narang (Retd.) constituted on 30 May, 2017, under Section 11 of the Commission of Inquiry Act:

- Statements of the parties with the Inquiry Commission Headed by Hon'ble Mr. Justice J.S. Narang (Retd.).
- Details of Examination-in-Chief and Cross-Examination of the parties with the Inquiry Commission headed by Hon'ble Mr. Justice J.S. Narang (Retd.).
- Evidence namely Examination-in-Chief and Cross-Examination along with all the documents exhibited by the parties with the Inquiry Commission headed by Hon'ble Mr. Justice J.S. Narang (Retd.).

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Having failed to procure the information from the PIO and the First Appellate Authority, the appellant has approached the Commission with second appeal.

Sh. Manoj Kumar Bansal, Executive Engineer in the Department of Mines and Geology, being the representative of Public authority, has taken the refuge under exemptions available to a public authority under Section 8 (1) (h) and 8 (1) (j) of the RTI Act to deny the information.

Plea has also been taken that information sought relates to the statements and cross-examination of some witnesses, which contains a sensitive information and as such is not desirable to be revealed. The respondents also submit that a Civil Writ Petition Number 33495/2018 challenging the report of Hon'ble Commission is pending with the Hon'ble High Court of Punjab and Haryana. The issue is also under investigation of Income Tax Department and Enforcement Directorate. The information sought according to respondents is likely to involve bank accounts of some witnesses which is the personal information of a third party. Therefore they are entitled to be protect the information under Section 8 (1) (j) of the RTI Act. The appeal has thus been requested to be dismissed on the aforesaid grounds.

In the counter submissions, the appellant has stated that the Punjab

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Government, Department of Home Affairs, had by notification dated 30.05.2017, constituted a Commission of Inquiry under Justice (Retd.) J.S. Narang, which has already submitted its report and the same has since been placed before the Punjab Vidhan Sabha along with “Action Taken Report”. It has been admitted by respondents in their memo dated 13.11.2018, which has been enclosed along with the appeal. The appellant has questioned the refuge having been taken by the respondents under section 8 (1) (h) and 8 (1) (j) of the RTI Act, which according to him has been inaptly invoked. They shall have to come up with some convincing evidence or argument to substantiate their cause.

The respondents have not explained as to how the revelation of information is likely to impede the process of investigation or apprehension or prosecution of offenders in the case in hand. Having failed to do so, the plea taken under section 8 (1)(h) of the RTI Act is tenuous and does not sustain. The mere suggestion that the matter is under investigation by the Income Tax Authorities or the Enforcement Directorate does not justify their claim in withholding the information. The appellant has further argued that the pendency of civil writ petition on the issue is also no ground to deny the supply of information especially as there is no bar on such score under RTI Act of 2005. There is no special direction to any authority from the Hon'ble High Court of Punjab and Haryana to withhold the information.

The appellant pleads that the information sought relates to a matter of grave

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public importance and does not amount to an unwarranted invasion into the privacy of an individual. The information sought in fact forms the basis of inquiry report which pertains to public activities. Had it not been so, there was no reason for the Government to constitute the Commission for an inquiry. Even the proviso under section 8 (1) (j) suggests that the information which cannot be denied to the Parliament or a State Legislature, shall not be denied to any person. It has not been denied by the respondents that the report has already been placed before the Punjab Legislative Assembly in March, 2018. The appellant has finally requested to reject the contention of the respondents and pass directions to the respondents to furnish the information as sought in the original application in the interest of justice.

The Commission has gone through contents of the file and has given its thoughtful consideration to respective submissions of the appellant as well as the respondents.

It shall be relevant to reproduce the provisions invoked by the respondents here under:

“8. Exemption from Disclosure of information – (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen-

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest or which would cause



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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 Commission finds that the plea of the respondents in invoking Section 8 (1) (h) of the RTI Act is misplaced. It has not been disputed that the enquiry has been completed and action taken report submitted before the Legislative Assembly. There is no suggestion as to how divulgence of information shall jeopardize or hamper the investigation or apprehension or prosecution of an accused, if any. The plea, as such, on this score is overruled. There is no confusion that the issue purely relates to public activities and invocation of section 8 (1) (j) of the RTI Act is also uncalled for. The information sought cannot be construed to be personal in nature as it forms part of an official record. It does in no way intrude into the privacy of an individual. The exception of provision under section 8 (1) (j) as such does not apply. The plea that the information sought is sensitive and is under investigation of Income Tax Department and Enforcement Directorate is vague and also hazy and does not warrant serious consideration.

The Enquiry Commission obviously was constituted following some serious

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allegations concerning the public affairs. Even if there is any chance of the disclosure of some personal information, the Commission is of view that the larger public interest is likely to outweigh the private interest if all harmed.

The respondents have failed to convincing rebut the contentions made by the appellant. The appeal as such succeeds. The respondents are directed to provide the information to the appellant within 15 days from the receipt of this order and report compliance to the Commission before the next date of hearing.

To come up on **24.10.2019 at 11.30 AM.**

12.09.2019

**Sd/-
(Yashvir Mahajan)
State Information Commissioner**