
(2011) 04 P&H CK 0361
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2233 of 2011

Bhupinder Singh Jassal

APPELLANT

Vs

State Information Commissioner, Punjab and Others

RESPONDENT

Date of Decision : 04-04-2011

Acts Referred:

Constitution of India, 1950 — Article 19, 226, 227
Right to Information Act, 2005 — Section 11, 2, 3, 4, 6

Citation : (2011) 3 CivCC 743 : (2011) 163 PLR 336

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mehinder Singh Sullar, J.—Tersenessly, the facts, which require to be noticed for a limited purpose of deciding the sole controversy, involved in the instant writ petition and emanating from the record, are that petitioner Bhupinder Singh Jassal moved an application dated 18.5.2010 (Annexure P2) to the Assistant State Public Information Officer (for brevity "ASPIO") of the office of Excise & Taxation Commissioner (respondent No. 3) and sought the following information, invoking the provisions of The Right to Information Act (hereinafter to be referred as "the Act") :

Who are the owners/partners of M/s Punjab Ice and General Mills, Gurudwara Road, Shahkot having VAT No. 03601023849.

2. The application was rejected by the ASPIO, by virtue of single line impugned order dated 27.5.2010 (Annexure P3).

3. Aggrieved by the; order (Annexure P3), the petitioner filed the appeal/complaint dated 12.8.2010 (Annexure P4), which was dismissed as well, by the State Information Commission, Punjab (for short "SIC) (respondent No.1), by way of impugned order dated 16.11.2010 (Annexure PS)."

4. The petitioner still did not feel satisfied and preferred the instant writ petition,

challenging the impugned orders. (Annexures P3 and PS), through the medium of the provisions of Articles 226 and 227 of the Constitution of India.

5. Having heard the learned counsel for the parties, having gone through the record and relevant provisions of the Act, with their valuable help and after bestowal of thoughts over the entire matter, to my mind, the instant writ petition deserves to be accepted in this context.

6. As is evident from the record, that the application (Annexure P2) filed by the petitioner was first rejected by the ASPIO, by means of single line, impugned order (Annexure P3) and his complaint/appeal (Annexure P4) was also dismissed by the SIC, by virtue of impugned order (Annexure PS).

7. As it emerges from the impugned order, that the main ground, which appears to have been weighed with the SIC, was that since the information sought by the petitioner is a personal information and no public interest is involved, so, it cannot be supplied u/s 8(1)(d) of the Act. Here, to me, the (SIC) has slipped into legal error in this regard.

8. At the very outset, the basic purpose, aims and objects of the Act, have to be kept into focus, while deciding the present writ petition. It is not a matter of dispute that the Act was enacted in order to ensure transparency in the system, smoother and deep access to information and to provide an effective framework for effecting the right to information, recognized under Article 19 of the Constitution of India.

9. Such thus being the position on record, now the short and significant question, though important, that arises for determination in this petition, is as to whether such information sought by the petitioner falls within the exemption clause as contemplated u/s 8(1)(d) of the Act or not?

10. Having regard to the rival contentions of learned counsel for the parties, to my mind, the indicated information sought by the petitioner does not squarely fall within the ambit of exemption clause as envisaged u/s 8 of the Act, as urged on behalf of the respondents.

11. Ex-facie, the solitary, argument of learned counsel for the respondents that the information sought is exempted u/s 8(1)(d) of the Act, is not only devoid of merit but misplaced as well.

12. As is clear that Section 8(1) of the Act postulates that notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-

(a) x x x x

(b) x x x x

(c) x x x x

(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third

party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.

13. Sequelly, the word "Information" has been defined u/s 2(f) to mean any material in any form, including records, documents, memos, emails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force and word "Record" includes-(i) any document, manuscript and file; (ii) any microfilm, microfiche and facsimile copy of a document; (iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and (iv) any other material produced by a computer or any other device.

14. Likewise, Section 2(j) defines, "right to information" means the right to information, accessible under this Act which is held by or under the control of any public authority and includes the right to-(i) inspection of work, documents, records; (ii) taking notes, extracts, or certified copies of documents or records; (iii) taking certified samples of material; and (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

15. Similarly, Section 3 of the Act escalates that subject to the provisions of this Act, all citizens shall have the right to information and obligations of public authorities to maintain all its record is listed in Section 4 of the Act. Every person is entitled to information, as per procedure prescribed u/s 6 of the Act and his request will be disposed of by the competent authorities u/s 7 of the Act.

16. In the same sequence, proviso to Section 8 of the Act envisaged that the information, which cannot be denied to the Parliament or the State Legislature, shall not be denied to any person.

17. A conjoint reading of the aforesaid provisions will leave no manner of doubt that every information is not exempted. Only those information's, pertaining to commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, the information available to a person in his fiduciary relationship, unless the competent authority is satisfied that we larger public interest warrants the disclosure of such information and the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual, unless the authorities are satisfied that the larger public interest justifies the disclosure of such information, are exempted and not otherwise.

18. What is not disputed here is that petitioner has only sought the information that who are owners/partners of M/s Punjab Ice and General Mills, Gurudwara Road, Shahkot having VAT No. 03601023849 and nothing else, To me, the information sought by the petitioner is factual in nature and cannot possibly be

termed either to be the information of commercial confidence, trade secrets or intellectual property, the disclosure of which would harm" the competitive position of a third party or available to a person in his fiduciary relationship and the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual as held by the SIC. Moreover, since the information sought cannot be denied to the Parliament or the State Legislature, so, the same cannot also be denied to the petitioner as well. Thus, as the information sought by the petitioner is factual in nature, therefore, the respondents cannot claim the exemption, as provided u/s 8(1)(d) of the Act, as urged on their behalf.

19. Sequelly, the next submission of learned counsel for the respondents that the information relatable to a third party cannot be supplied to the petitioner, is again not tenable. The word "Third-Party" has been defined u/s 2(n) of the Act and even SIC is competent to direct ASPIO to provide the information relating to third party as envisaged u/s 11 of the Act.

20. In this manner, it was obligatory on the pan of ASPIO to provide the factual information sought by the petitioner. If the arguments of learned counsel for respondents are accepted as such, then, no information will be permissible, which would certainly nullify the aims and objects of the Act. Therefore, the contention of learned counsel for the petitioner that he is entitled to the information sought under the Act, has considerable force. On the contrary, the submissions of learned counsel for the respondents "stricto sensu" liable to be and are hereby repelled and the impugned orders (Annexures P3 and P5) cannot legally be maintained in the obtaining circumstances of the case.

21. No other legal point, worth consideration, has either been urged or pressed by the learned counsel for the parties.

22. In the light of aforesaid reasons, the instant writ petition is allowed. Consequently, the impugned orders (Annexures P3 and P5) are hereby set aside.

The ASPIO (respondent No. 3) is directed to Supply the indicated information to the petitioner within a period of two weeks positively from the date of receipt of certified copy of this order.