

(2013) 12 RAJ CK 0012

In the Rajasthan High Court

Case No : Special Appeal (Writ) No. 636/2013 in Civil Writ Petition No. 3495/2012

Goverdhan Singh

APPELLANT

Vs

The State of Rajasthana

RESPONDENT

Date of Decision : 11-12-2013

Acts Referred:

Citation : (2014) 2 WLN 266

Hon'ble Judges : Amitava Roy, C.J;Veerender Singh Siradhana, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Amitava Roy, C.J.—In challenge is the judgment and order dt. 04.04.2013 rendered in S.B. Civil Writ Petition No. 3495/2012, instituted to direct the Office of His Excellency the Governor of Rajasthan to act in terms of the Right to Information Act, 2005 (for short, hereafter referred to as "the Act") and refer the appellant/writ-petitioner's complaint to the Hon"ble Supreme Court of India for appropriate enquiry. We have heard Mr. Indresh Sharma, the learned counsel for the appellant and Mr. Naveen Verma, the learned counsel for the respondents.

2. The appellant/writ-petitioner has introduced himself to be a RTI activist working in the field of information. Contending that not having been provided with the information sought for by him from the Office of the Director General of Police within the time prescribed as well as from that of the First Appellate Authority under the Act, he submitted Appeal No. 2765/2010 before the Rajasthan Information Commission on 16.07.2010. The appellant/writ-petitioner has averred that the Rajasthan Information Commission, on 22.02.2011 thereafter passed an order in open Court directing the Director General of Police, Jaipur City, Jaipur to provide the necessary information within a period of 21 days. He, however, alleged that he did not receive a copy of the order immediately thereafter and did so on 15.04.2011. Thereby, however the matter was remanded to the First Appellate Authority. The appellant/writ-petitioner has

alleged that the order was dictated on 22.02.2011 in the open Court and thereafter was altered in the interregnum. He has averred that a scrutiny of the judgments of the year 2011 under the Act, however, revealed that the order dt. 22.02.2011 pronounced in the open Court originally, was included therein. This, the appellant/writ-petitioner has asserted, did demonstrate the mala fide action of Mr. M.D. Korani, Ex. Chief Information Commissioner and Mr. T. Srinivasan, the Information Commissioner, who had indulged in the act of altering the same on extraneous considerations. Perceiving that such an action besides being wholly illegal was in abuse of the constitutional post held by them, the appellant/writ-petitioner filed a complaint under Sec. 190 of the Code of Criminal Procedure (for short, hereafter referred to as "the Cr.P.C.") against various persons under Secs. 13(1)(D), 13(2) of the Prevention of Corruption Act, 1988 and Sections 420, 466, 467, 468, 471, 167, 217, 218, 120B of the Indian Penal Code, before the Special Judge, Anti Corruption Bureau, Bikaner. The appellant/writ-petitioner has averred that the Court, thereafter, directed the Anti Corruption Department to investigate the matter and the proceeding was registered as Preliminary Enquiry No. 151/2011.

3. The appellant/writ-petitioner, thereafter, submitted a complaint also on 17.12.2011 under Sec. 17 of the Act before the then His Excellency the Governor of Rajasthan for referring the matter to the Hon'ble Supreme Court for removal of Mr. T. Srinivasan, the State Chief Information Commissioner, Rajasthan Information Commission, Jaipur from his post. The grievance of the appellant/writ-petitioner is that the Office of the then His Excellency the Governor of Rajasthan, on receipt of this complaint, however, did not act in terms of Section 17 of the Act and instead, forwarded the original file to the Principal Secretary, Administration Reforms Department for necessary action, instead of transiting it to the Hon'ble Apex Court.

4. The learned Single Judge, by the judgment and order impugned, while dilating on Section 17 of the Act, concluded that as the investigation by the Anti Corruption Bureau on the complaint filed by the petitioner, was underway and that no final finding had been recorded therein, no illegality had been committed by the Office of the then His Excellency the Governor of Rajasthan, in forwarding the matter to the General Administration Department. The writ petition was, thus, dismissed.

5. Mr. Sharma has argued that pendency of the investigation on his complaint by the Anti Corruption Bureau, notwithstanding, the Office of the then His Excellency the Governor of Rajasthan, as per mandate of Section 17 of the Act, ought to have referred the matter to the Hon'ble Supreme Court and it having failed to do so, this Court in the exercise of power under Art. 226 of the Constitution of India, ought to intervene and issue necessary direction to that effect.

6. Upon hearing the learned counsel for the appellant/writ-petitioner and on a consideration of the materials on record, we are not inclined to hold that the

view taken by the learned Single Judge is either implausible, absurd or in defiance of logic.

7. Section 17 of the Act is reproduced herein below:-

17. Removal of State Chief Information Commissioner or State Information Commissioner. -- (1) Subject to the provisions of sub-Section (3), the State Chief Information Commissioner or a State Information Commissioner shall be removed from his office only by order of the Governor on the ground of proved misbehavior or incapacity after the Supreme Court, on a reference made to it by the Governor, has on inquiry, reported that the State Chief Information Commissioner or a State Information Commissioner, as the case may be, ought on such ground be removed.

(2) The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the State Chief Information Commissioner or a State Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-Section (1) until the Governor has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-Section (1), the Governor may by order remove from office the State Chief Information Commissioner or a State Information Commissioner if a State Chief Information Commissioner or a State Information Commissioner, as the case may be,--

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a State Information Commissioner.

(4) If the State Chief Information Commissioner or a State Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of the State or participates in anyway in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-Section (1), be deemed to be guilty of misbehavior.

8. A plain perusal of the above text does not, in our view, even suggest that in

the facts and circumstances of the case, it was incumbent on the Office of the then His Excellency the Governor of Rajasthan to invariably refer the complaint filed by the appellant/writ-petitioner to the Hon''ble Apex Court for necessary action, as contemplated therein. As admittedly the investigation into the earlier complaint filed by the appellant/writ-petitioner, as ordered by the Special Judge, Anti Corruption Bureau, Bikaner, is being investigated upon by the Anti Corruption Bureau, Jaipur and the inquisition is still pending, we are of the unhesitant opinion that the course undertaken by the Office of the then His Excellency the Governor of Rajasthan, cannot be faulted with. To reiterate, the view taken by the learned Single Judge does not suffer from any apparent illegality, to warrant interference in this intra-Court appeal. The appeal is, therefore, dismissed. The stay application also stands rejected.