
(2010) 04 P&H CK 0285
In the Punjab And Haryana At Chandigarh

Punjab and Haryana High Court

APPELLANT

Vs

State Information Commission and Another

RESPONDENT

Date of Decision : 26-04-2010

Acts Referred:

Constitution of India, 1950 — Article 226
Right to Information Act, 2005 — Section 6, 8

Citation : (2010) 04 P&H CK 0285

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

K. Kannan, J.—The writ petition is filed by this Hon''ble Court in its administrative Wing challenging an order passed by the State Information Commission, Haryana directing the High Court to give the details sought for by a Judicial Officer who was compulsorily retired from service. The information that he had sought was to the following effect:

Report dated 1.10.2010 submitted by the then learned District and Sessions Judge (Vigilance) Haryana to the Sub Committee consisting of the three Hon''ble Judges of High Court and relating to the allegations against the applicant along with the report of the Sub Committee of the three Hon''ble Judges made thereafter.

2. Report by District and Sessions Judge, (Vigilance), Hayana relating to the departmental proceedings against the applicant and submitted sometime in the last week of October, 2001/01.10.2001.

2. The contention on behalf of the High Court was that the information which the Officer was demanding was not in public domain and therefore cannot be parted with under the provisions of Right to Information Act. The Information Commission rejected the plea and held that a preliminary enquiry report which had been prepared by the District and Sessions Judge(Vigilance) and submitted

to the Sub Committee consisting of three Hon''ble Judges of this Court could be said to be falling outside the public domain and rejected the plea made on behalf of the Court and directed the records to be given.

3. Learned Counsel for the petitioner states that the High Court has framed the rules called the Punjab and Haryana High Court (Right to Information) Rules, 2007 which exempted from disclosure of information which reads as follows:

Exemption from disclosure of Information

The information specified u/s 8 of the Act shall not be disclosed and made available and in particular the following information shall not be disclosed.

(a) Such Information which is not in the public domain or does not relate to judicial functions and duties of the Court and matters incidental and ancillary thereto.

(b) xx xx xx

4. The contention on behalf of the learned Counsel for the petitioner is that the preliminary enquiry report which was not even the basis on which a charge sheet was issued against the judicial officer cannot be sought for, since the enquiry on the charges has not been completed. He is not prepared to concede that the preliminary report had no bearing for the ultimate decision to compulsorily retire him.

5. In my view, it is irrelevant if a final decision has not been taken on the charge sheet, so long as the Officer has ultimately been compulsorily retired. The issue whether compulsory retirement is possible or not is invariably examined in the context of public interest and the question whether such public interest element was satisfied is always open to judicial review. The test ought to be, that if a challenge to compulsory retirement was made in any proceedings, say through a writ petition under Article 226, and the information shall be available for the Court or for the petitioner to appraise whether public interest element was satisfied and in the process of the enquiry, it is also a part of the record, then such information that the affected party seeks at a stage prior to a challenge through a writ petition shall also be permissible. Cases are aplenty where orders of compulsory retirement passed against judicial officers have been considered by the Hon''ble Supreme Court and where the element of public interest has been tested with records at their disposal before taking a decision. In the High Court of Punjab and Haryana v. Ishwar Chand Jain (1994) 4 SCC 579, the Hon''ble Supreme Court examined the ACR (and to that extent provided access to the petitioner as well) to set aside the order of compulsory retirement. In Madan Mohan Choudhary Vs. The State of Bihar, , the Supreme Court accessed the records to find that the judicial officer had passed a particular order in an anticipatory bail application which was taken as the basis to compulsorily retire him.

6. In the above two cases, the situations as to how even decisions taken by the

High Court at its Administrative side could be open to challenge could be discerned and the adequacy of reasons for compulsory retirement could be open to appraisals by Courts on the judicial side. The Right to Information Act itself states that it shall not be necessary to give the reasons as to why a person wants the information.

Section 6 of the Right to Information Act, 2005 reads as follows:

6. XX XX XX

(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

XX XX XX

This will answer an objection taken by the learned Counsel for the petitioner that the preliminary report is not even necessary since the final report has not yet been made pursuant to the issue of charge sheet. Even if it did not come in the realm of consideration by the Court, if an aggrieved party seeks information of the report, it shall only be fair and appropriate that such information is disclosed to him. It will be wrong to throw a veil of secrecy to any decision taken by this Court especially when it results in premature termination of service of a judicial Officer. The decision taken by the Information Commission is under such circumstances perfectly in order and there is no scope for intervention in the writ petition.

7. It must be remembered that the line that is being drawn between what shall be in public domain and what shall be sealed in iron chest of any establishment, as regards service particulars in particular, are getting dimmer by the day. The need for transparency in the administration of public bodies clicks on the torch light in every dark corner hitherto concealed from public gaze. A complaint against a Judicial Officer and a report made in favour or against him, preliminary to bringing to end his service career, cannot be eclipsed by a specious plea that such information is not in public domain. More than any other public institution, it shall be the judiciary which shall set an example to herald the era of transparency. Any attempt to conceal information will only go to erode the majesty of judiciary in public perception. It shall be indeed ironic if rules of natural justice, rectitude and transparency could ever be casualties in the haloed corridors of Court administration. They shall not be.

8. The writ petition is dismissed.