

PUNJAB STATE INFORMATION COMMISSION

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Sh. Ram Kumar
SCO No. 30 F.Floor,
Phase 1 (Sector 55)
s.a.s. Nagar (Mohali)
9878731648

..appellant

Vs

Sh. Kailash Gautam
Public Information Officer-cum-Supdt,
Personnel Department
(IAS Branch)
Punjab Civil Secretariat-1, Chandigarh,

First Appellate Authority
o/o the Under Secretary
Department of Personnel,
Punjab Civil Secretariat-1, Chandigarh.

..respondents

Appeal Case No. 751 of 2023

ORDER

This order may be read with reference to the previous order dated 26.9.2024 vide which the case was reserved to be pronounced.

2. The appellant has sought the following information as per his RTI application:-

“As per the directions laid down by the Hon'ble Supreme Court in case No.82 of 2011, an officer has to be retained on a post atleast for a period of two years and in the wake of that, the State Govt. had formed a Civil Services Board (CSB) vide notification dated 05.06.2020, a copy of which is attached herewith for quick reference The main features of the CSB, as are contained in the said notification, are as under-

2. *The Civil Service Board, Inter alla, shall discharge the following functions:-*

(a) The Civil Services Board shall make recommendations for all appointments of Cadre officers.

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(b) *The Civil Services Board shall examine the cases of officers who are proposed to be transferred before completion of minimum period of service as specified under sub-rule (3) and (4) or rule 7 of the Indian Administrative Service (Cadre) Rules, 1954.*

(c) *The Civil Services Board may consider for transfer an officer before he completes the tenure fixed under sub-rules (3) and (4) of rule 7 of the Indian Administrative Service (Cadre) Rules, 1954 based on such circumstances as it thinks fit.*

(d) *The Civil Services Board may recommend to the Competent Authority the names of officers for transfer before completion of minimum fixed tenure with reasons to be recorded in writing.*

3 *The Civil Services Board shall follow the following procedure in respect of postings and transfers of the officers:-*

(a) *The Civil Services Board shall seek detailed justification from the Personnel Department of the State Government for the transfer of an IAS officer before the specified tenure.*

(b) *The Civil Services Board shall:-*

(i) *Consider the report of the Administrative Department along with any other Inputs it may have from other reliable sources.*

(ii) *Obtain the comments or views of the officer proposed to be transferred based on the circumstances presented to it in the proposal.*

(iii) *Not make recommendation for premature transfer of Cadre Officers unless it has satisfied itself of the reasons for such premature transfer.*

4 *The Competent Authority may over-rule or reject the recommendations of the Civil Services Board for reasons to be recorded in writing.*

5. *It is hoped that the mandatory procedure as is laid down in the notification, is followed by the State Govt. In letter and spirit while ordering the postings and transfers of the IAS officers and further the said procedure must have also been followed while making the postings and transfers of the officers a few days ago (as per the attached news report dated 09.09.2022). In that context, following information be sent under the RTI Act:-*

a. *Copy of that record be furnished vide which the concerned department/AD had initiated and furnished its Initial proposal to CSB seeking pre-mature transfer of the Officers mentioned in the enclosed news item and especially the proposal about the transfer of Mr. Anurag Aggarwal, IAS.*

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b. Copy of all that record be furnished on which the recommendations of the concerned Deptt/AD or any other inputs from any other reliable resources were considered by the Board?

c. Copy of that record be furnished vide which views were taken from the officers about their proposed transfer (as is prescribed in the procedure) and also of that record on which any such views were given by the officers concerned

d. Copy of that record be sent on which the CSB did satisfy itself before making recommendations for pre-mature transfers, if any.

e. Copy of that record be sent on which the CSB did send its recommendations to the competent authority for effecting the postings and transfers.

3. However, the respondent Public Information Officer sent the written reply to the appellant, relevant portion of which is as follows:-

“2. ਆਪ ਵਲੋਂ ਹਵਾਲੇ ਅਧੀਨ ਪ੍ਰਤੀਬੇਨਤੀ ਰਾਹੀਂ ਮੰਗੀ ਗਈ ਸੂਚਨਾ ਆਰ .ਟੀ.ਆਈ. ਐਕਟ, 2005 ਦੀ ਧਾਰਾ 8(1) (j) ਦੇ ਦਾਇਰੇ ਵਿੱਚ ਆਉਂਦੀ ਹੈ | ਆਪ ਵਲੋਂ ਸੂਚਨਾ ਪ੍ਰਾਪਤ ਕਰਨ ਲਈ ਕੋਈ larger public interest ਨਹੀਂ ਦਰਸਾਇਆ ਗਿਆ | ਮਾਨਯੋਗ ਸੁਪਰੀਮ ਕੋਰਟ ਵਲੋਂ ਵੀ Civil Appeal No. 22 of 2009 ਵਿੱਚ ਕੀਤੇ ਫੈਸਲੇ ਵਿੱਚ ਅਜਿਹੀ ਸੂਚਨਾ ਨੂੰ ਨਿਜੀ ਸੂਚਨਾ ਦਰਸਾਉਂਦੇ ਹੋਏ ਆਰ .ਟੀ.ਆਈ.ਐਕਟ 2005 ਦੀ ਧਾਰਾ 8(1) (j) ਦੇ ਦਾਇਰੇ ਵਿੱਚ ਆਉਣਾ ਮੰਨਿਆ ਗਿਆ ਹੈ | ਇਸ ਲਈ ਆਪ ਵਲੋਂ ਮੰਗੀ ਗਈ ਸੂਚਨਾ ਮੁਹਈਆ ਨਹੀਂ ਕਰਵਾਈ ਜਾ ਸਕਦੀ |

4. Thereafter due to non-satisfaction with the response of the respondent Public Information Officer, the appellant filed the first appeal before the First Appellate Authority and the First Appellate Authority passed an order and the relevant portion of the same is as follows:-

“2. Notice was given to the Public Information Officer who put up the relevant case file, which has been perused by me. Perusal of the record reveals that Public Information Officer-cum- Superintendent, LAS. Branch, vide letter dated 19.10.2022 has conveyed their inability to provide information to the appellant citing that information sought falls under the ambit of the provisions of the Section 8(1)(0) of the Right to Information Act, 2005 and Hon'ble Supreme Court in the matter of Civil Appeal No. 22 of 2009 has also considered such information as personal information, being the same covered under section 8(1)(0) of the Right to Information Act, 2005, wherein no proof of the larger public interest was shown by the applicant.

3. Now considering the contentions of the appellant in the present appeal in respect of the judgment of the Hon'ble Supreme Court of India in the matter of Civil Appeal No. 22 of 2009 and provisions of the Right to Information Act, 2005, I

observe that the point of the posting/transfer has also been considered by the Hon'ble Supreme Court of India in the above mentioned case. Therefore, the contentions of the appellant are vague. Further, in the said judgment, such information has been justified to be personal in nature falling under section 8 of the Right to Information Act and mandating to disclose the larger public interest in seeking such information. Whereas, the present appellant has not provided any proof of larger public Interest neither in his application nor in the present appeal. Moreover, the decision of the one Public Information Officer is not binding on another Public Information Officer

4. Therefore, I am of the view that such information cannot be provided to the appellant in view of the judgment of Hon'ble Supreme Court of India and the provisions of the Right to Information Act, 2005, referred to above. Hence, the present appeal is hereby rejected.”

5. Feeling aggrieved, the appellant, filed the 2nd appeal and accordingly, notice of hearing was issued to the parties and the case was adjourned number of times.

6. In the interest of natural justice, both the parties were given ample opportunity to make the submissions and in support of their claim they made the submissions. The respondent primarily denied to supply the information as the same relates to 3rd party whereas the appellant made the submissions to supply the sought information. Therefore, keeping in view the submissions of the respondent, the appellant was directed to establish the larger public interest involved in seeking the information. The appellant In support of his claim made the submission:-

“Vide order dated: 05.07.2023, the Hon'ble CIC had directed the appellant to file a rejoinder, if any, to the rejoinder of the respondents. As per that, the appellant submits his rebuttal/rejoinder in the matter as under:-

- a. In their rejoinder, the respondents have taken the main plea/reliance on the judgement of the Hon'ble Apex Court in Civil Appeal No.22 of 2009. Very relevant to mention that the same very plea of the above said Judgement was taken by the respondents in the case on 16.03.2023 during the course of first hearing of the appeal. However, after detailed arguments on that date, the Hon'ble Commission had stressed mainly on the larger public interest in the case and based on that, the Hon'ble Commission had directed the appellant to submit a reply showing the larger public interest in the 3rdparty information. The

- b. direction, as was given by the Hon'ble Commission on the said date, was as under:-

After detailed deliberations with both the parties, the directions are issued to the appellant to submit the larger public interest involved in seeking the 3rd party information (as claimed by the respondents) before the next date of hearing to take the matter to its logical end.

- c. In this way the relevance of the said judgement in the case was duly examined by the Hon'ble Commission and the only limited point of "**larger public interest**" was short listed for final adjudication of the appeal and the appellant was directed to show the larger public interest in the case as said above. As per that, the appellant had filed his submissions dated: 06.04.2023 and in various paras of which, the issue of larger public interest was analyzed in detail. The issue was precisely discussed/clarified in Para No.2 (f) of the said submissions, which was as under:-

The more important aspect of the case is that all the postings and transfers of the officers are made solely in public interest and the word "Public Interest" is always written in each such order and as such when anything or any action is done/taken in public interest then the public interest itself happens as integral part of such cases and as such no more public interest remains to be shown or proved while seeking information about such cases.

- d. In this way the appellant prays that the submissions dated: 06.04.2023 as a whole and especially the submission made in Para 2 (1) of the same may kindly be taken into consideration while deciding the appeal finally.
- e. Further, the Respondents in their rejoinder, have termed the information (as has been sought) as invasion on the privacy of the officers concerned. As was brought to the notice of the Hon'ble Commission during the course of first hearing on 16.03.2023 and as has been discussed in detail in the written submissions dated 06.04.2023, the personal information of the officer/s concerned is not involved in the case and rather the information has been sought only about their posting & transfers and as was clarified in Para 2 (f) of the written submissions that transfers of public servants do take place only and only in public interest and not in private/personal interest and as such to seek information about the transfer can't be termed as invasion of the privacy of the officer/s concerned because all that happens the official process.
- f. Vide Para No.5 of their rejoinder, the respondents have clarified position about the proviso of section 8(1)(j) of the RTI Act. The said proviso provides that "Provided that the information which cannot be denied to the Parliament or a State Legislature, shall not be denied to any person". In that context the respondents, vide Para No.5 of their rejoinder, have given a very surprising justification. The said Para of their rejoinder is reproduced as under:-

That in reply to the contentions of the appellant regarding the information to be provided to the Parliament, it is submitted that the

Parliament or a State Legislature is a part of Government. The transfer of information from one part of the Government to another doesn't mandate to supply the information to the general public, which is a third party with regard to that information.

- g. It seems that while averring as above in their rejoinder, the respondents have not taken the pains either to understand the spirit of the Constitution or to follow the concerned mandatory provision of the RTI Act. The Preamble of our Constitution says "we the people" which means that "people as a whole" or for that matter the "general public as a whole" happens the Masters and all other institutions - may be Parliament or State Assemblies or any other organization, all are answerable to the public especially when the Parliament or for that matter the Assemblies do get formed with the representatives of the public duly elected by the later. Further, the Govt, has been shown as a principal party by the Respondents & the public has been shown as a third party forgetting that the Govt. is also elected by the people and at the same time the Govt ousted by the people with their vote power time and again. In a democratic set up each thing and each Institution happens of the people, by the people for the people and therefore the people are Supreme and not the Govt. as has been tried to be shown by the respondents especially when the Govt. happens subservient to the people. Also relevant to add that the Prime Minister happens the Chief Executive of the country but our PM has said time and again that he is not the PradhanMantri and rather is the PradhanSewak of the people and in this way, the people viz. the general Public as a whole keeps a clear supremacy over each one, may be any of the institutions or any functionary especially when all such institutions/ functionaries have been formed/appointed only and only for serving the public viz. the people. In this way, the public happens above all others and can't be separated or for that matter downgraded by comparing with the Govt. or the Houses but in their rejoinder, the Respondents have tried to demean the public by showing it a poor third party as compared to the various wings of the Govt. and in this way, by terming the public so, the Respondents have virtually insulted the Public for which they need to be asked to explain their such an objectionable stand on the issue.
- h. Further the proviso of Section 8 (1) (1) clearly stipulates that "Provided that the information which cannot be denied to the Parliament or a State Legislature, shall not be denied to any person" and in view of this mandatory proviso of the law, the Respondents are not at liberty to defy the same on unfounded and untenable grounds. Even otherwise, when there happens specific mandatory provision in the RTI Act Itself that any Information which can be shared with the Assembly, the same can't be denied to the people and as such the plea of the Respondents on the issue is wholly misconceived and untenable because if the involved information could be shared with the Assembly, the same can't be denied to be shared with the information seekers as per the said mandatory provision and thus the Respondents are bound to abide by the said mandatory provision of the law.

2. In view of above submissions, the Hon'ble Commission may be pleased to allow the appeal and direct the Respondents to furnish the point wise information in the case. It is further requested that the pattern as per which the State of Haryana had furnished the identical information vide their memo dated 12/13.08.2019, (copy of which was taken on record by the Hon'ble Commission during the course of hearing on 16.03.2023 & a copy of which is again attached herewith) may also please be taken into consideration while passing the final appropriate order in the case.

7. The respondent Public Information Officer too filed the submissions in support of his his claim and the relevant portion of the same is as follows:-

2. ਪ੍ਰਾਰਥੀ ਦੀ ਪ੍ਰਤੀਬੇਨਤੀ ਨੂੰ ਵਿਚਾਰਦੇ ਹੋਏ ਕਿ ਪ੍ਰਾਰਥੀ ਵੱਲੋਂ ਮੰਗੀ ਗਈ ਸੂਚਨਾ ਆਰ.ਟੀ.ਆਈ. ਐਕਟ, 2005 ਦੀ ਧਾਰਾ 8(1)(j) ਦੇ ਦਾਇਰੇ ਵਿੱਚ ਆਉਂਦੀ ਹੈ। ਮਾਨਯੋਗ ਸੁਪਰੀਮ ਕੋਰਟ ਵੱਲੋਂ Civil Appeal No. 22 of 2009 (Canara Bank Rep. by its Deputy Gen. Manager Vs C.S. Shyam & Anr.) ਵਿੱਚ ਕੀਤੇ ਫੈਸਲੇ ਮਿਤੀ 31.08.2017 (ਕਾਪੀ ਨੱਥੀ) ਵਿੱਚ ਵੀ ਅਜਿਹੀ ਸੂਚਨਾ ਨੂੰ ਨਿੱਜੀ ਸੂਚਨਾ ਦਰਸਾਉਂਦੇ ਹੋਏ ਆਰ.ਟੀ.ਆਈ. ਐਕਟ, 2005 ਦੀ ਧਾਰਾ 8(1)(j) ਦੇ ਦਾਇਰੇ ਵਿੱਚ ਆਉਣਾ ਮੰਨਿਆ ਗਿਆ ਹੈ ਅਤੇ ਲੋਕ ਸੂਚਨਾ ਅਫਸਰ ਵੱਲੋਂ ਸੂਚਨਾ ਨਾ ਮੁਹੱਈਆ ਕਰਵਾਉਣ ਦੇ ਫੈਸਲੇ ਨੂੰ ਸਹੀ ਠਹਿਰਾਇਆ ਗਿਆ ਹੈ। ਇਸ ਤੋਂ ਇਲਾਵਾ ਪ੍ਰਾਰਥੀ ਵੱਲੋਂ ਸੂਚਨਾ ਪ੍ਰਾਪਤ ਕਰਨ ਲਈ ਕੋਈ larger public interest ਨਹੀਂ ਦਰਸਾਇਆ ਗਿਆ। ਇਸ ਅਨੁਸਾਰ ਪ੍ਰਾਰਥੀ ਨੂੰ ਉਸ ਵੱਲੋਂ ਮੰਗੀ ਗਈ ਸੂਚਨਾ ਮੁਹੱਈਆ ਨਹੀਂ ਕਰਵਾਈ ਜਾ ਸਕਣ ਸਬੰਧੀ ਲੋਕ ਸੂਚਨਾ ਅਫਸਰ ਦੇ ਪੱਤਰ ਮਿਤੀ 19.10.2022 (ਕਾਪੀ ਨੱਥੀ) ਰਾਹੀਂ ਸੂਚਿਤ ਕੀਤਾ ਗਿਆ ਸੀ।

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3. ਇਸ ਉਪਰੰਤ ਪ੍ਰਾਰਥੀ ਵੱਲੋਂ ਪਹਿਲੀ ਐਪੀਲੇਟ ਅਥਾਰਟੀ ਪਾਸ ਅਪੀਲ ਮਿਤੀ 15.11.2022 ਦਾਇਰ ਕੀਤੀ ਗਈ ਸੀ। ਪਹਿਲੀ ਐਪੀਲੇਟ ਅਥਾਰਟੀ ਵੱਲੋਂ ਪ੍ਰਾਰਥੀ ਵੱਲੋਂ ਅਪੀਲ ਵਿਚਲੇ ਤੱਥਾਂ ਨੂੰ ਵਿਚਾਰਦੇ ਹੋਏ ਆਪਣੇ ਹੁਕਮਾਂ ਵਿੱਚ ਦਰਸਾਇਆ ਗਿਆ ਸੀ ਕਿ ਮਾਨਯੋਗ ਸੁਪਰੀਮ ਕੋਰਟ ਵੱਲੋਂ Civil Appeal No. 22 of 2009 ਵਿੱਚ ਬਦਲੀਆਂ/ਤੈਨਾਤੀਆਂ ਦੇ ਨੁਕਤੇ ਸਬੰਧੀ ਵੀ ਵਿਚਾਰ ਕੀਤਾ ਗਿਆ ਹੈ, ਇਸ ਲਈ ਪ੍ਰਾਰਥੀ ਦੀ ਦਲੀਲ ਵਾਜਿਬ ਨਹੀਂ ਹੈ। ਇਸ ਤੋਂ ਇਲਾਵਾ ਮਾਨਯੋਗ ਸੁਪਰੀਮ ਕੋਰਟ ਦੇ ਇਨ੍ਹਾਂ ਹੁਕਮਾਂ ਵਿੱਚ ਹੀ ਅਜਿਹੀ ਸੂਚਨਾ ਨੂੰ ਆਰ.ਟੀ.ਆਈ. ਐਕਟ, 2005 ਦੀ ਧਾਰਾ 8(1)(j) ਦੇ ਦਾਇਰੇ ਵਿੱਚ ਆਉਣਾ ਮੰਨਿਆ ਗਿਆ ਹੈ ਅਤੇ ਅਜਿਹੀ ਸੂਚਨਾ ਪ੍ਰਾਪਤ ਕਰਨ ਲਈ larger public interest ਦਰਸਾਇਆ ਜਾਣਾ ਲਾਜ਼ਮੀ ਹੋਣਾ ਲਿਖਿਆ ਹੈ ਜਦੋਂਕਿ ਪ੍ਰਾਰਥੀ ਵੱਲੋਂ ਨਾ ਹੀ ਆਪਣੀ ਪ੍ਰਤੀਬੇਨਤੀ ਵਿੱਚ ਅਤੇ ਨਾ ਪਹਿਲੀ ਅਪੀਲ ਵਿੱਚ ਕੋਈ larger public interest ਦਰਸਾਇਆ ਗਿਆ ਹੈ। ਇਸ ਤੋਂ ਇਲਾਵਾ ਕਿਸੇ ਲੋਕ ਸੂਚਨਾ ਅਫਸਰ ਦਾ ਫੈਸਲਾ ਦੂਸਰੇ ਲੋਕ ਸੂਚਨਾ ਅਫਸਰ ਤੇ ਪਾਬੰਦ ਨਹੀਂ ਹੈ। ਇਸ ਲਈ ਪਹਿਲੀ ਐਪੀਲੇਟ ਅਥਾਰਟੀ ਵੱਲੋਂ ਹੁਕਮ ਮਿਤੀ 13.12.2022 (ਕਾਪੀ ਨੰਬਰ) ਰਾਹੀਂ ਪ੍ਰਾਰਥੀ ਦੀ ਪਹਿਲੀ ਅਪੀਲ ਖਾਰਜ ਕਰ ਦਿੱਤੀ ਗਈ ਸੀ।

4. ਹੁਣ ਪ੍ਰਾਰਥੀ ਸ੍ਰੀ ਰਾਮ ਕੁਮਾਰ ਵੱਲੋਂ ਲੋਕ ਸੂਚਨਾ ਅਫਸਰ ਅਤੇ ਪਹਿਲੀ ਐਪੀਲੇਟ ਅਥਾਰਟੀ ਦੇ ਫੈਸਲੇ ਵਿਰੁੱਧ ਮਾਨਯੋਗ ਰਾਜ ਸੂਚਨਾ ਕਮਿਸ਼ਨ, ਪੰਜਾਬ ਵਿਖੇ ਵਿਸ਼ਾ ਅੰਕਿਤ ਅਪੀਲ ਕੇਸ ਦਾਇਰ ਕੀਤਾ ਗਿਆ ਹੈ। ਪ੍ਰਾਰਥੀ ਵੱਲੋਂ ਇਸ ਅਪੀਲ ਕੇਸ ਵਿੱਚ ਉਸ ਵੱਲੋਂ ਮੰਗੀ ਗਈ ਸੂਚਨਾ ਨੂੰ ਆਰ.ਟੀ.ਆਈ. ਐਕਟ, 2005 ਦੀ ਧਾਰਾ 8(1)(j) ਦੇ ਦਾਇਰੇ ਵਿੱਚ ਨਾ ਆਉਣ ਸਬੰਧੀ ਲਿਖਿਆ ਹੈ ਅਤੇ ਇਹ ਵੀ ਲਿਖਿਆ ਹੈ ਕਿ ਐਕਟ ਵਿੱਚ ਇਹ ਉਪਬੰਧ ਹੈ ਕਿ ਜੇ ਸੂਚਨਾ ਸੰਸਦ ਜਾਂ ਰਾਜ ਵਿਧਾਨ ਸਭਾ ਨੂੰ ਮੁਹੱਈਆ ਕਰਵਾਉਣ ਤੋਂ ਇਨਕਾਰ ਨਹੀਂ ਕੀਤਾ ਜਾ ਸਕਦਾ, ਉਹ ਸੂਚਨਾ ਵਿਅਕਤੀ ਨੂੰ ਦੇਣ ਤੋਂ ਵੀ ਇਨਕਾਰ ਨਾ ਕੀਤਾ ਜਾਵੇ ਅਤੇ ਅਧਿਕਾਰੀਆਂ ਦੀਆਂ ਬਦਲੀਆਂ/ਤੈਨਾਤੀਆਂ ਲੋਕ ਹਿੱਤ ਵਿੱਚ ਕੀਤੀਆਂ ਜਾਂਦੀਆਂ ਹਨ ਅਤੇ ਲੋਕ ਹਿੱਤ ਵਿੱਚ ਕੀਤੇ ਗਏ ਕੰਮ ਨੂੰ ਕਿਸੇ ਅਧਿਕਾਰੀ ਦੀ ਨਿੱਜੀ ਸੂਚਨਾ ਨਹੀਂ ਕਿਹਾ ਜਾ ਸਕਦਾ।

ਇਸ ਤੋਂ ਇਲਾਵਾ ਮਾਨਯੋਗ ਸੁਪਰੀਮ ਕੋਰਟ ਦੇ ਹਵਾਲੇ ਅਪੀਲ ਕੇਸ ਕਰਮਚਾਰੀ ਦੀ ਨਿੱਜੀ ਸੂਚਨਾ ਬਾਰੇ ਸੀ, ਜਿਵੇਂ ਕਿ ਉਸ ਦੀ ਜ਼ਿਆਦਾਤਰ ਕਰਨ ਦੀ ਮਿਤੀ, ਅਹੁਦਾ, ਅਥਾਰਟੀ ਜਿਸ ਵੱਲੋਂ ਬਦਲੀ ਦੇ ਹੁਕਮ ਜਾਰੀ ਕੀਤੇ ਗਏ, ਆਦਿ, ਜਦੋਂਕਿ ਪ੍ਰਾਰਥੀ ਵੱਲੋਂ ਵਿਸ਼ਾ ਅੰਕਿਤ ਕੇਸ ਵਿੱਚ ਕੇਵਲ ਦੋ ਸਾਲ ਤੋਂ ਪਹਿਲਾਂ ਕੀਤੀ ਗਈ ਬਦਲੀ/ਤੈਨਾਤੀ ਸਬੰਧੀ ਸੂਚਨਾ ਮੰਗੀ ਹੈ। ਅਧਿਕਾਰੀਆਂ ਦੀਆਂ ਬਦਲੀਆਂ/ਤੈਨਾਤੀਆਂ ਲੋਕ ਹਿੱਤ ਵਿੱਚ ਕੀਤੀਆਂ ਜਾਂਦੀਆਂ ਹਨ ਅਤੇ ਬਦਲੀਆਂ/ਤੈਨਾਤੀਆਂ ਵਿੱਚ ਕਿਸੇ ਅਧਿਕਾਰੀ ਦਾ ਨਿੱਜੀ ਕੁਝ ਨਹੀਂ ਹੁੰਦਾ। ਇਸ ਲਈ ਮਾਨਯੋਗ ਸੁਪਰੀਮ ਕੋਰਟ ਦਾ ਉਕਤ ਫੈਸਲਾ ਇਸ ਕੇਸ ਦੇ ਤੱਥਾਂ ਤੇ ਲਾਗੂ ਨਹੀਂ ਹੁੰਦਾ।

ਇਸ ਤੋਂ ਇਲਾਵਾ larger public interest ਦੇ ਨੁਕਤੇ ਸਬੰਧੀ ਲਿਖਿਆ ਗਿਆ ਹੈ ਕਿ ਐਕਟ ਦੀ ਧਾਰਾ 6(2) ਤਹਿਤ ਸੂਚਨਾ ਪ੍ਰਾਪਤ ਕਰਨ ਵਾਲਾ ਪ੍ਰਾਰਥੀ ਸੂਚਨਾ ਪ੍ਰਾਪਤ ਕਰਨ ਹਿੱਤ ਕੋਈ ਕਾਰਨ ਦੱਸਣ ਲਈ ਪਾਬੰਦ ਨਹੀਂ ਹੈ।

ਇਸ ਤੋਂ ਇਲਾਵਾ ਜਦੋਂ ਹਰਿਆਣਾ ਸਰਕਾਰ ਵੱਲੋਂ ਅਜਿਹੀ ਮਾਮਲੇ ਵਿੱਚ ਸੂਚਨਾ ਪ੍ਰਦਾਨ ਕੀਤੀ ਹੈ ਤਾਂ ਪੰਜਾਬ ਸਰਕਾਰ ਵੀ ਅਜਿਹੀ ਸੂਚਨਾ ਦੇਣ ਲਈ ਪਾਬੰਦ ਹੈ।

5. ਉਕਤ ਸਬੰਧੀ ਇਹ ਦੱਸਿਆ ਜਾਂਦਾ ਹੈ ਕਿ ਅਧਿਕਾਰੀਆਂ ਦੀਆਂ ਬਦਲੀਆਂ/ਤੈਨਾਤੀਆਂ ਪ੍ਰਬੰਧਕੀ ਜ਼ਰੂਰਤਾਂ ਦੇ ਮੱਦੇਨਜ਼ਰ ਲੋਕ ਹਿੱਤ ਵਿੱਚ ਕੀਤੀਆਂ ਜਾਂਦੀਆਂ ਹਨ, ਪੰਜੂ ਰਾਜ ਸਰਕਾਰ ਵੱਲੋਂ ਕੀਤੀਆਂ ਬਦਲੀਆਂ/ਤੈਨਾਤੀਆਂ ਦੇ ਕਾਰਨਾਂ ਨੂੰ ਜਨਤਕ ਤੌਰ ਤੇ ਪ੍ਰਗਟ ਨਹੀਂ ਕੀਤਾ ਜਾ ਸਕਦਾ ਜਦੋਂ ਤੱਕ ਕਿ ਵੱਡੇ ਪੱਧਰ ਤੇ ਲੋਕ ਹਿੱਤ (larger public interest) ਨਾ ਹੋਵੇ। ਜਿਥੋਂ ਤੱਕ ਸੰਸਦ ਜਾਂ ਰਾਜ ਵਿਧਾਨ ਸਭਾ ਨੂੰ ਸੂਚਨਾ ਮੁਹੱਈਆ ਕਰਵਾਉਣ ਦਾ ਸਬੰਧ ਹੈ, ਤਾਂ ਪੰਜਾਬ ਵਿਧਾਨ ਸਭਾ ਵੱਲੋਂ ਅਜੇ ਤੱਕ ਦਫਤਰ ਪਾਸੋਂ ਅਜਿਹੀ ਕੋਈ ਸੂਚਨਾ ਮੰਗੀ ਨਹੀਂ ਗਈ।

ਇਸ ਤੋਂ ਇਲਾਵਾ ਮਾਨਯੋਗ ਸੁਪਰੀਮ ਕੋਰਟ ਵੱਲੋਂ Civil Appeal No. 22 of 2009 (Canara Bank Rep. by its Deputy Gen. Manager Vs C.S. Shyam & Anr.) ਵਿੱਚ ਕੀਤੇ ਫੈਸਲੇ ਮਿਤੀ 31.08.2017 (ਕਾਪੀ ਨੰਬਰ) ਵਿੱਚ ਪੈਰਾ ਨੰ: 4 ਵਿੱਚ ਹੇਠ ਅਨੁਸਾਰ ਲਿਖਿਆ ਗਿਆ ਹੈ:-

4) On 01.08.2006, respondent No.1 submitted an application to the Public Information Officer of the appellant-Bank under Section 6 of the Act and sought information regarding transfer and posting of the entire clerical staff from 01.01.2002 to 31.07.2006 in all the branches of the appellant-Bank.

ਉਕਤ ਅਨੁਸਾਰ ਮਾਨਯੋਗ ਸੁਪਰੀਮ ਕੋਰਟ ਵਿਖੇ ਅਪੀਲ ਕੇਸ ਵਿੱਚ ਮੁੱਖ ਤੌਰ ਤੇ ਸੂਚਨਾ ਕਰਮਚਾਰੀਆਂ ਦੀ ਬਦਲੀ/ਤੈਨਾਤੀ ਸਬੰਧੀ ਮੰਗੀ ਗਈ ਸੀ। ਇਸ ਲਈ ਪ੍ਰਾਰਥੀ ਦੀ ਇਹ ਦਲੀਲ ਕਿ ਮਾਨਯੋਗ ਸੁਪਰੀਮ ਕੋਰਟ ਦਾ ਫੈਸਲਾ ਉਸ ਵੱਲੋਂ ਮੰਗੀ ਗਈ ਸੂਚਨਾ ਤੇ ਲਾਗੂ ਨਹੀਂ ਹੁੰਦਾ, ਮੰਨਣਯੋਗ ਨਹੀਂ ਹੈ।

ਇਸ ਤੋਂ ਇਲਾਵਾ ਪ੍ਰਾਰਥੀ ਨੂੰ ਸੂਚਨਾ ਪ੍ਰਾਪਤ ਕਰਨ ਹਿੱਤ ਕੋਈ ਕਾਰਨ ਦੱਸਣ ਲਈ ਨਹੀਂ ਬਲਕਿ ਵੱਡੇ ਪੱਧਰ ਤੇ ਲੋਕ ਹਿੱਤ (larger public interest) ਦਰਸਾਉਣ ਲਈ ਕਿਹਾ ਗਿਆ ਹੈ, ਜੋ ਕਿ ਐਕਟ ਦੇ ਉਪਬੰਧਾਂ ਅਤੇ ਮਾਨਯੋਗ ਸੁਪਰੀਮ ਕੋਰਟ ਦੇ ਫੈਸਲੇ ਅਨੁਸਾਰ ਸੂਚਨਾ ਨੂੰ ਜਨਤਕ ਤੌਰ ਤੇ ਪ੍ਰਗਟ ਕਰਨ ਲਈ ਲਾਜ਼ਮੀ ਹੈ।

ਇਸ ਤੋਂ ਇਲਾਵਾ ਕਿਸੇ ਇੱਕ ਲੋਕ ਸੂਚਨਾ ਅਫਸਰ ਦਾ ਫੈਸਲਾ ਦੂਸਰੇ ਲੋਕ ਸੂਚਨਾ ਅਫਸਰ ਲਈ ਪਾਬੰਦ ਨਹੀਂ ਹੈ। ਇਸ ਦਾ ਜ਼ਿਕਰ ਪਹਿਲੀ ਐਪੀਲੇਟ ਅਥਾਰਟੀ ਵੱਲੋਂ ਵੀ ਆਪਣੇ ਹੁਕਮਾਂ ਵਿੱਚ ਇਹ ਜ਼ਿਕਰ ਕੀਤਾ ਗਿਆ ਹੈ।

6. ਉਪਰੋਕਤ ਦਰਸਾਈ ਸਥਿਤੀ/ ਤੱਥਾਂ ਦੇ ਸਨਮੁੱਖ ਆਪ ਨੂੰ ਬੇਨਤੀ ਕੀਤੀ ਜਾਂਦੀ ਹੈ ਕਿ ਪ੍ਰਾਰਥੀ ਸ਼੍ਰੀ ਰਾਮ ਕੁਮਾਰ ਵੱਲੋਂ ਦਾਇਰ ਵਿਸ਼ਾ ਅੰਕਿਤ ਅਪੀਲ ਨੂੰ ਖਾਰਜ ਕਰਨ ਦੀ ਕ੍ਰਿਪਾਲਤਾ ਕੀਤੀ ਜਾਵੇ ਜੀ।

8. Now, the issue before the Commission is whether the public interest submitted by the appellant outweighs the submissions made by the respondent.

9. It is also a fact that the Civil Services Board shall have to sought the detailed justification from the Personnel Department of the State Government for the transfer of an IAS officer before the specified tenure. But the Civil Services Board shall have to take the decision based on the report of the Administrative Department along with any other Inputs it may have from other reliable sources. Now, if the Board has incorporated such a report of reliable sources then the source report is not liable to made public as the source may have given the information in the larger public interest of the State and more so, disclosure of his identity may lead to put him/her in awkward situation then nobody will come forward to give the source report. Therefore, the request of the appellant is not tenable.

Secondly, the Civil Services Board has to obtain the comments or views of the officer proposed to be transferred based on the circumstances presented to it in the proposal. If it is considered that the officer transferred has given the comments or views who was transferred, then, whether it is justified to make it public which may have in favor of such transfer.

Thirdly, the Civil Services Board will not make recommendation for premature transfer of Cadre Officers unless it has satisfied itself of the reasons for such premature transfer.

It is also appropriate to mention here the judgement passed by the Hon'ble Supreme Court of India in Civil Appeal No. 2683, 10044 & 10045 of 2010 in the matter

CPIO, Supreme Court Versus Subhash Chandra Agrawal and the relevant portion of the same is reproduced below:-

“ 59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive.

The main contention of the appellant is that the information which cannot be denied to the Parliament cannot be denied. The appellant also made the submission that Section 8(1)(j) of the RTI Act is not applicable in this case. In addition, the appellant submits that each and every transfer of the government is done in the public interest. He also categorically submitted that he has sought the similar information from the Haryana Government and the said office has supplied the same information and also requested that the information sought by him, be supplied. It is also a fact that the respondent relied upon the judgement passed by the Hon'ble Supreme Court of India in Civil Appeal No. 22 of 2009 - Canara Bank versus CS Shyam&anr and the relevant portion of the same is as follows:-

“12) In our considered opinion, the issue involved herein remains no more res integra and stands settled by two decisions of this Court in GirishRamchandraDeshpandeVs Central Information Commissioner &ors (2013) 1 SCC 212 and R.K. Jain Vs Union of India &Anr., (2013) 14 SCC 794, it may not be necessary to re-examine any legal issue urged in this appeal.

13)“12. 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 or 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."

On the other hand, the appellant made the submission that the said judgment is not applicable in his case and made the submissions already mentioned herein.

The applicant also referred to the judgment passed by the Hon'ble Supreme Court of India in 2013 according to which the Civil Services Board was constituted and it was directed that no Officer should be shifted before two years and in case he has to transfer, then the approval of the Civil Services Board may be obtained. The appellantsought the information as a news item was published in the newspaper on 9thSeptember 2022, in which it is mentioned that an officer who has vacated 3603 acre illegal land has been transferred.The respondent on the other hand submitted that the appellant correspond to the official file regarding the transfer of ShriAnuragAgarwal, IAS, which might include the reasons/remarks for transfer of the officer, either personal or official in nature, which could cause unwarranted invasion of the privacy of that officer and has no relationship to any public activity or public interest and denied the information.

Although, the Competent Authority may over-rule or reject the recommendations of the Civil Services Board for reasons to be recorded in writing but such recommendations should not be made public as it may adversely affect the working of

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the officer concerned.

More so, the Civil Services Board constitutes the following member:-

- | | | |
|-------|--|--------------------|
| (i) | Chief Secretary | ..Chairman |
| (ii) | Senior most Additional Chief Secretary/Financial Commissioner or an officer of equivalent rank and status. | ..Member |
| (iii) | Principal Secretary/Secretary/Special Secretary, Department of Personnel | ..Member Secretary |

The other aspect is that in case out of three and/or any-one/two of the officers have given the remarks in favor and/or against the officer who is being transferred even then he may have receive any type of threat which may obstacle in his official duties. In such a situation, no officer would like to record his version independently.

Keeping in view the above, the request of the appellant is also not tenable as there may have the comments against the officer and/or in favor of the officer regarding whom the information is being sought and/or there may have the comments given by the officer concerned which he may have made in favor of the Government which could cause unwarranted invasion of the privacy of that officer and has no relationship to any public activity or public interest.

The preamble of the RTI Act, 2005 reads as under -

“to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

To provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

WHEREAS the Constitution of India has established democratic Republic;

AND WHEREAS democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

AND WHEREAS revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

AND WHEREAS it is necessary to harmonize these conflicting interests while preserving the paramountcy of the democratic ideal;"

The mandate of the RTI Act, 2005 is in favor of the minimum exemptions and maximum disclosures but there should not be any conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information and it is very much necessary to harmonize these conflicting interests while preserving the paramountcy of the democratic ideal.

Accordingly, the case is disposed of and closed.

Dated:2.12.2024

(Inderpal Singh)
Chief Information Commissioner,
Punjab.