

**PUNJAB STATE INFORMATION COMMISSION
RED CROSS BUILDING, NEAR ROSE GARDEN,
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Sh. Rajwinder Singh, S/o Sh Kuldeep Singh,
26, MC Colony, Opposite Gillwali Gate,
Amritsar.

.....Complainant

Versus

Public Information Officer

O/o DCP,
Amritsar.

Remanded back to First Appellate Authority

Shri Naunihal Singh, IPS,
Commissioner of Police
Amritsar City.

....Respondents

CC No. 153 of 2023

Present: i) Shri Rajwinder Singh – Complainant – in person
ii) Shri Hira Lal, Sub Inspector (Incharge RTI Cell) O/o DCP Amritsar, Shri Ashwani Kumar, Sub Inspector, Police Station, C-Division Amritsar City and Shri Surinder Singh, ASI O/o DCP Amritsar for the PIO – in person

ORDER:

1. The RTI application is dated 19.01.2022 vide which the complainant has sought information as enumerated in his RTI application. The complaint was filed in the Commission on 27.02.2023 under Section 18 of the Right to Information Act, 2005 (hereinafter RTI Act). Notice of hearing was issued for 24.05.2023

2. The case has been heard today. As per respondents, at the time of filing of RTI application, the enquiry was pending and the reply was sent to the complainant vide letter dated 11.02.2023. Now the enquiry has been completed and enquiry report alongwith relevant documents have been provided to the complainant.

3. The complainant has received the information but has certain reservations about a letter issued by the department on different timelines giving different versions.

4. Having gone through the record, the Bench observes that the complainant has directly approached the Commission by preferring complaint in the Commission. The Bench further observes that the complainant has not availed the provision of Section 19(1) of the RTI Act by filing an appeal with the First Appellate Authority (FAA). As such, the FAA has not been able to address the grievances of the complainant. The attention of the Complainant is drawn to the decision of the judgment of Hon'ble Supreme Court of India rendered on 12.12.2011 in Information Commissioner and another Versus State of Manipur and another in para 31 whereof, it has been held that while entertaining a complaint case under Section 18 of the RTI Act, 2005, the Commissioners have no jurisdiction to pass an order providing for an access to the information which is as under:-

31. We uphold the said contention and do not find any error in the impugned judgment of the Hon'ble High Court whereby it has been held that the Commissioner while entertaining a complaint under Section 18 of the said Act has no jurisdiction to pass an order providing for access to the information."

As such, since the complainant has approached the Commission under the provisions of Section 18 of the RTI, 2005, no directions for providing further information can be given by the Commission.

5. Since there is an alternative and efficacious remedy of First Appeal available to the Complainant under Section 19(1) of the RTI Act, 2005 which has not been availed in the instant complaint case and the First Appellate Authority has not had the occasion to review the decision of PIO, as envisaged under the RTI Act by passing a detailed well reasoned speaking order.

6. The instant matter is remanded back to the **Shri Naunihal Singh, IPS, Commissioner of Police, Amritsar City**. The Commission hereby directs the FAA to treat the copy of the Complaint (enclosed herewith) as the First Appeal and decide the matter in accordance with the provisions of the RTI Act after giving all concerned parties an opportunity to be heard. He is directed to hear the complainant within ten days and decide the matter.

7. In case, the complainant is not satisfied with the decision of the First Appellate Authority (FAA), he is at liberty to file second appeal before Punjab State Information Commission Section 19(3) of the RTI Act, 2005.

8. In view of the above, **the case is disposed off and closed**. Copy of the order be sent to the parties.

Chandigarh
24.05.2023

Sd/-
(Lt Gen Ajae Kumar Sharma (Retd))
State Information Commissioner, Punjab