

PUNJAB STATE INFORMATION COMMISSION
RED CROSS BUILDING, NEAR ROSE GARDEN,
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Sh. Prem Lal Goyal, S/o Late Sh Kaur Ram,
H NO-40, Sector-20-C,
Green Avenue Colony,
Mandi Gobindgarh.

.....Complainant

Versus

Public Information Officer
O/o Under Secretary,
Local Govt, Pb Civil Secretariat,
Sector-1, Chandigarh.

....Respondents

CC No. 194 of 2023

Present: i) Appellant – Absent
ii) Smt.Bhupinder Kaur, ADO-cum-PIO, GMADA – through cisco-webex and Shri Rajiv Kumar, Building Inspector, Town Planning O/o Director, Local Govt.– in person

ORDER:

1. The RTI application is dated 02.12.2022 vide which the complainant has sought information as enumerated in his RTI application. The complaint was filed in the Commission on 13.03.2023 under Section 18 of the Right to Information Act, 2005 (hereinafter RTI Act). Notice of hearing was issued for 12.06.2023

2. The case has been heard today. As per respondent present from the office of Director Local Govt, the information relates to PUDA/GMADA and the RTI application has been transferred to them under section 6(3) of the RTI Act vide letter dated 13.02.2023. The PIO-GMADA comes present through cisco-webex and states that no NOC is being issued by Town Planning and Licensing Branch in respect of commercial and residential plots situated in colonies and reply to this effect has been sent to the appellant vide letter dated 09.06.2023. A copy of reply has also been sent to the Commission through email.

3. The appellant is absent. The appellant is contacted on his mobile and he expresses dissatisfaction on the reply given.

4. However, 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 **Shri Jaswinder Singh Kahlon, Executive Officer(Policy)-cum- First Appellate Authority O/o GMADA, Mohali**. 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
12.06.2023**

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