

**PUNJAB STATE INFORMATION COMMISSION
RED CROSS BUILDING, NEAR ROSE GARDEN,
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Sh Surinder Mittal, S/o Late Sh Dr, H.L. Mittal,
302, SUS Nagar, Phagwara,
Distt Kapurthala.

.....Complainant

Versus

Public Information Officer
O/o Commissioner, MC,
Phagwara.

Remanded back to First Appellate Authority

Dr. Nayan, Commissioner, MC,
Phagwara.

....Respondents

CC No. 221 of 2023

**Present: i) Complainant – Absent
ii) Shri Vinayak Kumar, DCFA O/o MC Phagwara for the Respondent –
in person**

ORDER:

1. The RTI application is dated 01.02.2023 vide which the complainant has sought information as enumerated in his RTI application. The complaint was filed in the Commission on 27.03.2023 under Section 18 of the Right to Information Act, 2005 (hereinafter RTI Act). Notice of hearing was issued for 13.06.2023.

2. The case has been heard today. As per respondent, the information has been provided to the complainant vide letter dated 08.06.2023 through registered post. The respondent also submits a copy of information/reply to the Bench which is taken on record.

3. The complainant is absent nor is represented.

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 **Dr.Nayan, First Appellate Authority-cum Commissioner, MC Phagwara**. 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
13.06.2023

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