

PUNJAB STATE INFORMATION COMMISSION

Red Cross Building, Near Rose Garden,
Madhya Marg, Sector 16, Chandigarh.

Ph: 0172-2864111, Visit us @ www.infocommpunjab.com,
Email: psic21@punjabmail.gov.in



FINAL ORDER

Navdeep Singh,
#3, Ranjit Bagh, Near State
College of Education, Patiala.

Versus

Public Information Officer,
o/o Principal Secretary, Water Resources Department, Punjab,
Mini Sectt., Sector 9, Chandigarh.

First Appellate Authority,
o/o Principal Secretary, Water Resources Department, Punjab,
Mini Sectt. Sector 9, Chandigarh.

Appeal Case No. 4257 of 2022 (Video Conference Proceedings)

PRESENT:

Navdeep Singh (Appellant) 81465-44004
Chetan, SA (for the Respondent) 78374-16878

ORDER:

1. The RTI application is dated **19.7.2022** vide which the appellant has sought information:

“Subject: Information sought under RTI act regarding renovation/repair of Girls Hostel No. 1 and Girls Hostel No. 2 at Government Medical College Patiala.

Specific detail of information required:

You are requested to supply me the attested copies of complete correspondence of the concerned files and noting files prepared and maintained in the office of the Principal Secretary, Water Resources Department Chandigarh.

1. With regard to work of renovation/repair of Girls Hostel No. 1 at Government Medical College Patiala.

2. With regard to work of renovation/repair of Girls Hostel No. 2 at Government Medical College Patiala.

From the date Punjab Health Systems Corporation had started writing to Water Resources Deptt. against me regarding the above mentioned works to till date.

Kindly also supply the attested copy of standing orders passed by the competent authority time to time for the submission and finalization of the cases in the Water Resources deptt.”

as enumerated in his RTI application. First Appeal was filed with the First Appellate Authority (FAA) on **4.8.2022** and Second Appeal was filed in the Commission on **14.9.2022** under Section 19 of the Right to Information Act, 2005. Notice was issued to the parties for first hearing in the Commission on **19.1.2023**.

2. Both parties are present. The respondent PIO has made a written submission to this Commission's Notice of Hearing vide Letter No. 787693 Dated 10.1.2023, wherein he states that the information sought in this RTI application pertains to an ongoing departmental enquiry against the appellant and was so denied as per Section 8(1)(h) of the RTI Act, 2005 vide Letter No. 1/400922/2022 Dated 28.7.2022. Subsequently, in his Order Dated 5.9.2022 the FAA also upheld the PIO's decision to deny the information. The appellant, present via Video Conference from Patiala, however, contends that Section 8(1)(h) of the RTI Act, 2005, “does not cover departmental enquiries”. He states that he requires the information for his own defense in the departmental enquiry against him.

Contd....2

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3. There is however ample case law wherein exemption sought as per Section 8(1)(h) in matters pertaining to departmental enquiries or disciplinary proceedings, have been upheld and allowed. The Central Information Commission's 19.1.2019 decision in C. Nagarajan vs Department Of Posts (No. CIC/POSTS/A/2018/159728) reads as under:

"...this Commission is of the considered opinion that the contention of the respondent is found reasonable and there appears no reason to interfere with the same. The appellant is at liberty to obtain necessary information from the Disciplinary Authority at the appropriate stage, which as a matter of legal norm is anyway made available to the accused to prove his innocence. ..."

4. Similarly, in Shankar Sharma & Ors. vs. DGIT [CIC/AT/A/2007/0007, 10 & 11], The Commission's decision was as follows:

".....17. the term 'investigation' used in Section 8(1)(h) , in the context of this Act should be interpreted broadly and liberally. We cannot import into [RTI Act](#) the technical definition of 'investigation' one finds in Criminal Law. Here, investigation would mean all actions of law enforcement, disciplinary proceedings, enquiries, adjudications and so on. Logically, no investigation could be said to be complete unless it has reached a point where the final decision on the basis of that investigation is taken. In that sense, an investigation can be an extended investigation.....The respondents are, therefore, right in holding that it would be a misnomer to hold that investigation in matters such as this, the moment the Investigating Officer submits his report to the competent authority spells the end of investigation."

5. In another case, Govind Jha v. Army HQs, (CIC/AT/A/2006/00039 dated 01.06.2006), the Central Information Commission observed as under:

".....although the rules of disciplinary proceedings provide for disclosure of all documents and information which constitute the basis for the disciplinary action against an employee, yet such employees demand additional information pertaining to them through the [RTI Act](#). These demands are mostly about disclosure of file-notings and other materials which otherwise would not be available to the employee under the Disciplinary Proceedings Rules. It has been the consistent position of the Commission that a disciplinary enquiry assumes the characteristics of an ongoing investigation and the material thereof cannot be disclosed under [Section 8\(1\)\(h\)](#) of the RTI Act."

6. In V.K. Gulati Vs. DG Vig. Customs & Central Excise; [CIC/AT/A/2007/01508, dated 17.06.2007], the Commission's position was as follows:

"5. disclosure of information relating to ongoing disciplinary proceedings, which are in the nature of ongoing investigations, will have the impact of compromising those proceedings and restricting the discretion of the Enquiry Officer to decide as to what documents the officer proceeded against will have access to. Since departmental enquiry is in the nature of ongoing investigation, it is covered by [Section 8\(1\)\(h\)](#) of the RTI Act. The only element which needs to be proved is whether the requested disclosure would impede the process of investigation. It has been the view of the Commission that such disclosures would impede the process of investigation in so far as these would affect the ability of the Enquiry Officer to conduct and regulate the extant departmental proceeding. It is also true that during any preliminary enquiry, a number of witnesses are examined and information is collected. Disclosure of this variety of information would undoubtedly bring out into the open its sources, which will be injurious to the interests of those who offer their assistance to the preliminary enquiry in the confidence that their identity would not be disclosed."

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6. Commission has noted that a number of employees of the public authorities facing departmental/vigilance and other forms of proceedings from their respective managements have tended to use the [RTI Act](#) to access information – specially file notings in their own vigilance matters / disciplinary matters – in order to somehow lay hands on evidence that they could use in their favour. Commission has no problem with such an approach but since premature disclosure of information, specially file notings, prior to the final decision being made in a disciplinary action has the potential to disrupt the proceedings, Commission has been guarded in authorizing such disclosures. [The RTI Act](#), apart from being a rights expanding instrument, it is also an instrument

for improving governance. In that sense, it is always helpful to be guarded in interfering with the disciplinary proceedings, through which the managements enforce discipline within the organization and bring the guilty employees to book. Most disciplinary proceedings are under laws, which prescribe the processes of the proceeding such as the documents that can be disclosed to the officer proceeded against, the discretion of the enquiry officers to decide what documents to be disclosed to the accused officers in conformity with the norms of justice and fairplay and so on. Each time an RTI proceeding is started to force disclosure of documents, regardless of what the enquiry officers may have to say on this, potentially the process of the enquiry is impeded. Considering its large ramification, it is unsafe to authorize disclosure of such information under the [RTI Act](#)."

7. Furthermore, the Delhi High Court's Judgement dated 10.11.2006, in WP(C) No. 16712/2006 in [Surinder Pal Singh vs. UOI & Ors.](#), reads as follows:

".....Since the chargesheet has been filed, the process of investigation has been completed but the petitioner cannot contend that there is no apprehension with the respondent that the information sought by the petitioner may impede the prosecution of the offender. Whether the respondents have apprehension or not is to be decided by the respondents in the present facts and circumstances. The apprehension of the respondents is not without any basis. In any case the prosecution of the offender is pending. Since prosecution of the offender is pending and has not been completed, it can not be inferred that divulgence of information will not impede the prosecution of the offender. The respondents, therefore, are justified in claiming exemption under [Section 8](#) (1) (h) from disclosure of information sought by the petitioner..."

8. It is the considered view of this Commission that the respondent PIO's decision to deny the appellant, Sh. Navdeep Singh's request for information under Section 8(1)(h) was appropriate and as per the provisions of the RTI Act, 2005. I see no cause or reason to interfere with the PIO's decision.

9. The Appeal is accordingly **Disposed of**.

Sd/-
(ASIT JOLLY)
State Information Commissioner, Punjab.

Chandigarh
19.1.2023