

PUNJAB STATE INFORMATION COMMISSION
RED CROSS BUILDING, NEAR ROSE GARDEN,
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(Helpline No.0172-2864100)(From 10.00 AM to 04.00PM on working days)



Shri Vivek Anand Ahuja,
R/o H. No. 132, Sector 8-A, Chandigarh.

.....Complainant

Versus

Public Information Officer
O/o The Deputy Commissioner,
Fazilka,

Remanded Back

First Appellate Authority

O/o The ADC (General), Fazilka.

....Respondents

CC No. 583 of 2022

Present: (i) **The representative of Complainant, Shri Manmohan Upneja (Advocate), in person.**
(ii) **Shri Manjit Singh, Superintendent, Grade -1 through webex.**

ORDER

1. The RTI application is dated 04.05.2022 vide which the appellant has sought information as enumerated in his RTI application. Complaint was filed in the Commission on 09.09.2022 under Section 18 of the Right to Information Act, 2005 (hereinafter RTI Act).
2. The case has been heard today in the Commission's office at Chandigarh. Advocate, Shri Manmohan Upneja submits his Vakalatnama before the bench and further states that no information has been supplied to the complainant.
3. On the asking of the bench, Shri Manjit Singh, Superintendent states that the information relating to this present case has also been sent to Shri Vivek Anand Ahuja, complainant vide letter number 2370 dated 20.10.2022 and a copy of same has been sent to the bench through email.
4. The Bench observes that the information has not been received by the complainant and he 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:-

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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 First Appellate Authority i.e. Shri Amit Sareen, ADC (General), Fazilka.** 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 above, this complaint case is **disposed off and closed.** Copies of the orders be sent to the parties.

Chandigarh
27.10.2022

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

Copy to (By Regd. Post):

First Appellate Authority, Shri Amit Sareen,
ADC (General), Fazilka.

Encl. RTI application