

**PUNJAB STATE INFORMATION COMMISSION  
RED CROSS BUILDING, NEAR ROSE GARDEN,  
SECTOR 16, CHANDIGARH.**

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Shri Vishal Wadhwa  
S/o Shri Satpal Wadhwa  
#128, M.C. Colony,  
Fazilka.``

.....Complainant

Versus

**Public Information Officer**

O/o Executive Officer  
Municipal Council,  
Fazilka.

**Remanded Back**

**First Appellate Authority**

O/o ADC (Urban Development),  
Now ADC (General)  
Fazilka.

....Respondents

**CC No.628 of 2022**

**Present:** (i) **Complainant- absent.**  
(ii) **None on behalf of PIO/Respondent**

**ORDER**

1. The RTI application is dated 07.05.2022 vide which the Complainant has sought information as enumerated in his RTI application. Complaint was filed in the Commission on 17.06.2022 under Section 18 of the Right to Information Act, 2005 (hereinafter RTI Act).
2. The notice of hearing was issued to the parties for 15.11.2022. The case has been heard today. Shri Vishal Wadhwa, complainant has not come present to attend the hearing in person before the Bench or through cisco webex. He has, however, sent a letter by e.mail dated 11.11.2022 requesting for exemption from personal appearance and to hear him through V.C.
3. Neither the PIO O/o Executive Officer, Municipal Council, Fazilka has come present to attend the hearing in person before the Bench or through cisco webex. However, the Bench observes that a letter dated 03.11.2022 has been received by e.mail from ADC (General), Fazilka directing the PIO-cum-EO, Municipal Council, Fazilka to attend the hearing. In spite of that the PIO has not come present to attend the hearing.
4. The Bench further 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 ,

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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 **First Appellate Authority i.e. Shri Sandeep Kumar, IAS**, Additional Deputy Commissioner (Urban Development), now 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 the above, **the case is disposed off and closed**. Copy of the order be sent to the parties.

Chandigarh  
15.11.2022

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

Copy to (By Regd. Post):

First Appellate Authority, Shri Sandeep Kumar, IAS,  
ADC (Urban Development)/ADC (General), Fazilka.