

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

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Shri Makhan Singh, S/o Shri Jagir Singh,
Village Bika, Distt: SBS Nagar.

.....Complainant

Versus

Public Information Officer

O/o District Attorney,
SBS Nagar.

Remanded back to First Appellate Authority

Sh.Nirmal Pal Singh,
Director Prosecution and Litigation, Punjab,
First Floor, Block-E, Punjab School Education Board,
Phase-8, Sector 62, SAS Nagar, Mohali.

....Respondents

CC No. 65 of 2023

Present: i) Shri Makhan Singh – Complainant – in person
ii) Sh.Tejbir Singh, Assistant District Attorney O/o District Attorney, SBS Nagar – in person

ORDER:

1. The RTI application is dated 04.11.2022 vide which the Complainant has sought information as enumerated in his RTI application. Complaint was filed in the Commission on 17.01.2023 under Section 18 of the Right to Information Act, 2005 (hereinafter RTI Act).

2. The notice of hearing was issued to the parties for 12.04.2023. The case has been heard today. As per respondent, the matter relates to FIR No.62 under section 341, 354 & 509 and challan relating to this case has been filed in court and the complainant can get the record from the concerned court as per rules. The point-wise reply to the RTI application has been provided to the complainant vide letter dated 05.12.2022 through registered post. Further the complainant has not filed first appeal before the First Appellate Authority.

3. The complainant is not satisfied with the reply and states that the PIO has not supplied the relevant record relating to FIR as sought in point-1 of the RTI application.

4. 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.

7. The instant matter is remanded back to the **First Appellate Authority i.e. Shri Nirmal Pal Singh, Director Prosecution and Litigation, Punjab, First Floor, Block-E, Punjab School Education Board building, Phase-VIII, Sector 62, SAS Nagar, 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.

8. 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.

9. In view of the above, **the case is disposed off and closed**. Copy of the order be sent to the parties.

**Chandigarh
12.04.2023**

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