

**PUNJAB STATE INFORMATION COMMISSION
RED CROSS BUILDING, NEAR ROSE GARDEN,
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Shri Mahesh Inder Singh, S/o Shri Sarban Singh,
R/o Village Diyalgarh, Jeejan, Tehsil Dirba,
Distt:Sangrur.

.....Complainant

Versus

Public Information Officer

O/o Tehsildar Dirba
District Sangrur.

Remanded back to First Appellate Authority

Deputy Commissioner, Sangrur.

....Respondents

CC No. 70 of 2023

Present: i) Complainant – Absent
ii) Sh.Sukhwant Singh, Registry Clerk O/o DC Sangrur posted at Dirba and Sh.Aman Singla, Patwari Halka Dayalgarh – in person

ORDER:

1. The RTI application is dated 26.07.2022 vide which the Complainant has sought information as enumerated in his RTI application. Complaint was filed in the Commission on 19.01.2023 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 respondents, the matter relates to a complaint filed by Jasmail Kaur, Raj Kaur d/o Sarban Singh in the office of Assistant Commissioner (Complaints) Sangrur against Tej Singh & others. The complainant had filed RTI application with the office of Commissioner, Patiala Division Patiala for seeking action taken report on the said complaint which was transferred by the office of Commissioner, Patiala to DC Sangrur. The office of DC Sangrur further transferred the same to Tehsildar Dirba. As per respondent, the enquiry is pending with the Tehsildar Dirba and all concerned persons have been issued notice for personal appearance in the court of Tehsildar Dirba for 17.04.2023. The respondent also submits a copy of reply in the Commission which is taken on record.

3. The complainant is absent nor is represented.

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 –cum-Deputy Commissioner, Sangrur**. 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**