

PUNJAB STATE INFORMATION COMMISSION
Red Cross Building, Near Rose Garden,
Sector 16, Chandigarh.

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Shri Surinder Singh, AEE Retd.
S/o Shri Ajit Singh
R/o Deep Enclave,
Village Satiawala,
District Ferozepur.

..... Complainant

Versus

Public Information Officer,
O/o Principal Secretary,
Power Department, Punjab,
Chandigarh.

Remanded Back

First Appellate Authority,

O/o Chairman-cum-Managing Director,
PSPCL,H.O., Patiala.

.....Respondent

CC No.747 of 2022

Present:

- (i) **Ms. Chandanpreet Kaur & Sh.Kamalpreet Singh, on behalf of the Complainant- in person.**
- (ii) **Shri Harjit Singh, Superintendent, Energy Branch, O/o Principal Secretary, Power, on behalf of the PIO/Respondent- in person.**

ORDER

1. The RTI application is dated 30.07.2022 vide which the Complainant has sought information as enumerated in his RTI application. Complaint was filed in the Commission on 20.10.2022 under Section 18 of the Right to Information Act, 2005 (hereinafter RTI Act).

2. The notice of hearing was issued to the parties for 04.01.2022. The case has been heard today. Ms.Chandanpreet Kaur and Shri Kamalpreet Singh attend the hearing on behalf of Shri Surinder Singh, complainant in person before the Bench and state that the appellant is their father who retired from PSPCL. He had been involved in a corruption case and his dues have not been released and no document regarding the enquiry pending against him have been provided even post his retirement.

3. Shri Harjit Singh, Superintendent, Energy Branch O/o Principal Secretary, Power comes present in person before the Bench and states that the matter regarding which the complainant has sought information, relates to CMD, PSPCL, Patiala. He also produces before the Bench a letter dated 02.08.20217, the perusal of which shows the award of sentence and penalty on the complainant and another official under the P.C. Act, 1988.

5. The Bench observes from the version of both the parties that the matter relates to an enquiry against the complainant. The Bench also 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.

6. 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 Baldev Singh Sran, Chairman-cum-Managing Director, PSPCL, Patiala**. 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
04.01.2023

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

Copy to (By Regd. Post):

First Appellate Authority, Shri Baldev Singh Sran, Chairman-cum-Managing Director,
PSPCL, Patiala.