

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



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Helpline No.0172-2864100(From 10.00 AM to 04.00 PM on working days)

Shri Sohan Singh, S/o Shri Sucha Singh,
R/o Village Bara, P.O. Pathereri Jatta,
Tehsil and District Roopnagar.

...Complainant

Versus

Public Information Officer

O/o Superintending Engineer,
PSPCL, Distribution Division,
Roopnagar.

REMANDED BACK

**(Regd. Post) First Appellate Authority,
O/o Chief Engineer (South),
PSPCL Patiala.**

....Respondents

CC No. 778 of 2022

Present: i) **Complainant: Shri Sohan Singh, in person.**
ii) **None on behalf of Respondent / PIO.**

ORDER:

1. The RTI application is dated 13.10.2022 vide which the complainant has sought information as enumerated in his RTI application and the complaint was filed in the Commission on 15.11.2022 under Section 18 of the Right to Information Act, 2005 (hereinafter RTI Act).
2. The notice of hearing was issued to the parties for 19.01.2023. Accordingly, the case has been heard today. Shri Sohan Singh, complainant states that no information has been supplied to him yet.
3. The PIO O/o SE, PSPCL, Distribution Division, Roopnagar has not come present in person before the Bench nor through cisco webex nor the PIO has deputed any of his representatives to attend the hearing on behalf of the PIO.
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 judgement 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 judgement 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. Chief Engineer (South), 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.

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 under 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
19.01.2023

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

Copy to (By Regd. Post):

First Appellate Authority,
Chief Engineer, (South),
PSPCL, Patiala.

Encl. RTI application