

**PUNJAB STATE INFORMATION COMMISSION
RED CROSS BUILDING, NEAR ROSE GARDEN,
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Shri Ashok Kumar, S/o Late Shri Sham Lal,
R/o Bank Street, New Basti, Nabha, Distt:Patiala.



.....Appellant

Versus

Public Information Officer

O/o Punjab Ware Housing Corporation,
Punjab Chandigarh.

First Appellate Authority

O/o Punjab Ware Housing Corporation,
Punjab Chandigarh.

....Respondents

AC No. 804 of 2023

Present: i) Shri Shivam Goyal on behalf of Appellant – in person
ii) Smt Taranjit Kaur Bajwa, Warehouse Manager-cum-PIO and Smt.Anuradha, Senior Assistant for the respondent – in person

ORDER:

1. The RTI application is dated 15.10.2022 vide which the appellant has sought information as enumerated in his RTI application. First appeal was filed with the First Appellate Authority (hereinafter FAA) on 07.12.2022 and the second appeal was filed in the Commission on 23.01.2023 under Section 19 of the Right to Information Act, 2005 (hereinafter RTI Act).

2. The case has been heard today. As per respondent, the appellant is one of the partners of M/s Bassiarkh Rice Mill, Bhawanigarh allotted to PSWC during KMS 2010-11 and execution against the said defaulter miller is undergoing before the Ld. Court at Sangrur and challan in Case FIR No.11 dated 14.02.2012 under section 406 IPC has been presented before the Ld.Trial Court for its trial. In view of pending court case and as per legal opinion of Legal Advisor, the information cannot be provided under section 8(1)(h) of the RTI Act and reply to this effect has been sent to the appellant vide letter dated 13.12.2022. The Commission has received reply of the PIO dated 18.04.2023 which is taken on record.

3. The appellant has filed objections by way of written submission which is taken on record. It has been mentioned in the reply that there is nothing mentioned in the RTI Act 2005 that if department had initiated civil proceedings or had registered FIR against the person then the PIO cannot supply information. Information can only be denied if it would impede the process of investigation or apprehension or prosecution of offenders. The appellant has cited decisions of Delhi High Court in the case title Bhagat Singh v/s CIC WP(C) No.3114 of 2007 D/d 03.12.2007 – Case titled B.S.Mathur V/s PIO Delhi High Court in WP(C) 295 of 2011 and WP(C) 608 of 2011 D/d 03.06.2011 – case titled Union of India V/s Manjit Singh Bali WP(C) No.6341 of 2015, 1803 of 2018 and CM No.11546 of 2015 and 35797 of 2016, 7410 of 2018 D/d 06.08.2018 – Under section 8, exemption from releasing information is granted if it would impede the process of investigation or the prosecution of the offenders whereas the authority withholding information must show satisfactory reasons as to why the release of such information would hamper the investigation process. Further the investigation in the instant matter is over as it is admitted by respondent in the reply. As regards apprehension/arrest of accused, the petitioner is enjoying liberty on being granted benefit of bail.

4. Section 8(1)(h) provides exemption from information which would impede the process of investigation or apprehension or prosecution of offenders. However, there is nothing on record which shows that the public authority has been able to justify the reasons as to how disclosure of information would impede the process of investigation or apprehension or prosecution of offenders whereas the investigation in this case is over and challan has been filed in the Hon'ble court.

5. Since appeal cases of similar nature related to the appellant are under hearing before the Bench of Hon'ble SIC, Shri Asit Jolly, , therefore, it will be appropriate to transfer this case to the said bench for appropriate decision in this case along with the other cases.

6. Therefore the case file be sent to Deputy Registrar for placing the case before the Hon'ble Chief Information Commission for consideration and reallotment of case to the Bench of Shri Asit Jolly, Hon'ble SIC, Shri Asit Jolly.

**Chandigarh
19.04.2023**

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

CC to :DR/PSIC