

Shri Ram Singh,
S/o Shri Maghar Singh
R/o Village Kotali Kalan,
District Mansa.

..... Complainant

Versus

Public Information Officer,
O/o Chief Engineer (South)
Punjab State Power Corporation
Limited (PSPCL), Patiala.

Remanded Back

First Appellate Authority,
O/o Chief Engineer, South,
Punjab State Power Corporation
Limited (PSPCL), Patiala.

.....Respondent

CC No.856 of 2022

Present: (i) Complainant- absent.
(ii) Er.Preet Mohinder Singh, Sr. XEN, Sub Urban Division, PSPCL,
Barnala, on behalf of the PIO/Respondent- cisco webex.

ORDER

1. The RTI application is dated 12.10.2022 vide which the Complainant has sought information as enumerated in his RTI application. Complaint was filed in the Commission on 01.12.2022 under Section 18 of the Right to Information Act, 2005 (hereinafter RTI Act).
2. The notice of hearing was issued to the parties for 06.02.2023. The case has been heard today. The complainant Shri Ram Singh has not come present in person or through cisco webex.
3. Er.Preet Mohinder Singh, Sr. XEN, Sub Urban Division, PSPCL, Barnala comes present to attend the hearing through cisco webex. He states that the complainant has sought information in respect of one Avtar Singh, C.H.D. regarding his absence period from 20.10.2018 to 02.09.2022 which has been sent to complainant upto 05.07.2019 vide letter dated 21.11.2022 by registered post. The information thereafter is not available as the said employee relates to Chief Engineer, Hydel Project, PSPCL, Patiala.
4. Since the complainant is absent, he is contacted on his mobile phone. He admits receipt of information as mentioned above, however, denies any information thereafter. He is apprised that the case is being remanded back to the First Appellate Authority who will hear him.
5. 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.

6. 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.

7. 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.

8. The instant matter is remanded back to the **First Appellate Authority i.e. Er. Sandeep Gupta, Chief Engineer, South, PSCPL, 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.

9. 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.

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

**Chandigarh
06.02.2023**

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

Copy to (By Regd. Post):

**First Appellate Authority/Er. Sandeep Gupta, Chief Engineer, South,
PSPCL, Patiala.**