

PUNJAB STATE INFORMATION COMMISSION

Red Cross Building, Near Rose Garden,
Madhya Marg, Sector 16, Chandigarh.

Ph: 0172-2864111, Visit us @ www.infocommpunjab.com,
Email: psic21@punjabmail.gov.in



FINAL ORDER

Tanuj Mittal,
2, ITI Road,
Rajpura – 140 401

Versus

Public Information Officer-cum-Superintendent,
o/o District & Sessions Judge,
Judicial Complex, The Mall, Patiala.
First Appellate Authority-cum-District & Sessions Judge,
Judicial Complex, The Mall, Patiala.

Appeal Case No. 2420 of 2021

PRESENT:
(Appellant)
(Respondent)

ORDER:
(To be read in continuity with earlier orders on **24.8.2021**)

1. The RTI application is dated **5.1.2021** vide which the appellant has sought information as under:

“...an area of 550.03 acres was acquired by the State of Punjab for establishment of Industrial Park by the applicant i.e. Nahar Industrial Infrastructure Co. in Village Lalru, Lehli, Jalalpur & Hassanpur, Tehsil Rajpura, now District Mohali (erstwhile District Patiala) and the award for the said Land was announced by the L.A.C on 12/09/1994. The total amount of Compensation Rs. 60,72,60,133 (Rs. Sixty Crore Seventy Two Lacs Sixty Thousand One Hundred Thirty Three Only) was deposited in court by the applicant/ company through various cheques favouring Additional District Judge, Patiala.

That the following Information is required from the District Nazir attached to Sessions Court, Patiala in the tabular form.

- a) Confirmation of total amount deposited by the Nahar Industrial Enterprises Ltd to the Addl. District Judge Patiala for the land purchase by Nahar Industrial Infrastructure Corporation Ltd at Village Lalru, Lehli, Jalalpur & Hassanpur, Tehsil Rajpura, now Distt. Mohali.
- b) The names of the land owners/their legal heirs, who have been paid compensation amount under the award dated 12/09/1994 along with the money paid/distributed to them, as enhanced by the courts.
- c) The amount paid and the date of disbursement.
- d) The name of the execution petition and its number, with the name of the court, in which each payment has been made.
- e) Details of undisbursed/ unclaimed amount if any still lying with the Nazir of District Judge, Patiala.”

as enumerated in his RTI application. First Appeal was filed with the First Appellate Authority (FAA) on **22.3.2021** and Second Appeal was filed in the Commission on **21.5.2021** under Section 19 of the Right to Information Act, 2005. The case was last heard on **24.8.2021**.

Contd....2

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2. After a period of about two months, the respondent PIO furnished a reply vide Letter No. 1565/RTI dated 4.3.2021 along with a pointwise reply to the RTI application and some information, as received from the Nazir in the office of the District & Sessions Judge Patiala. Said reply was as under:

(a) The total amount deposited by Nahar Industrial Enterprises Ltd. to the Addl. District Judge, Patiala, is reflected in Annexure-A enclosed herewith.

(b) The names of the payees who have been paid compensation from said amount, are reflected under Column titled as 'Names of Payees' in Annexure-B. However, the information as regard to the payees being the land owner/their legal heirs who have been paid compensation amount under the award dated 12/09/1994' is not available on record. The amount disbursed to the payees is however reflected under the column titled as 'Amount Paid/Balance' in Annexure-B.

(c) The amount paid is reflected under the column 'Amount Paid/Balance' in Annexure-B. The date of disbursement is not available on record.

(d) The Names of the execution petition is not available on record. However, the 'number' of execution petition and 'names of courts', as available on record, are reflected under column titled as 'Names/Number of Case' in Annexure-B.

(e) There is no separate column available on record which reflects undisbursed/unclaimed amount lying with the Nazir of this office. Only, the joint entries as reflected under column named 'amount paid/ Balance' in Annexure-B are available on record."

3. Rightly contending that the information furnished to him was "incomplete," the appellant filed an appeal to the FAA-cum-District & Sessions Judge Patiala on 22.3.2021. In said First Appeal, the appellant contended that the information supplied to him "is incomplete, sketchy, full of discrepancies and doubtful." While acknowledging the receipt of the information sought vide point a of his RTI application, the appellant contended that the information pertaining to points b to e, has not been furnished by the respondent PIO.

4. At the first hearing of the aforesaid First Appeal on 7.4.2021, the FAA directed the PIO to furnish the information with respect to the amount of Rs. 5,27,00,000 admittedly deposited by Nahar Industrial Infrastructure Ltd. (as highlighted in the grounds for the First Appeal). In compliance, the respondent PIO provided said information, "as available in the record," vide Letter No. 2782 dated 16.4.2021. However, as rightly pointed out by the appellant in his letter to the PIO dated 19.4.2021, the information supplied was the same as that furnished with the PIO's initial reply vide Letter No. 1565/RTI dated 4.3.2021, and so was still "highly incomplete."

5. Thereafter, on 10.5.2021, the FAA disposed of the First Appeal as under:

"...5. The Public Information Officer submits that he has supplied the information to the applicant as much as was available in the record maintained by the District Nazir. Mr. Pardeep Kumar, previous Nazir had not maintained the record correctly and he had not been making proper entries in the record. He submits that Mr. Pardeep Kumar, District Nazir had already been facing the departmental enquiry on account of the said lapse and in fact presently he is under suspension in connection with the issue involved in the instant proceedings. He submits that he was required to provide the information from the record available in the office but he cannot be directed to now collect the information from various sources and to compile the same for providing the same to the applicant.

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6. No doubt the instant case highlights the sorry state of affairs with regard to maintenance of the record by the District Nazir. It is quite strange that the record with regard to disbursement of such a huge amount has not been maintained properly. Due to the lapse on the part of the District Nazir, the Public Information Officer is not able to provide the complete information to the appellant. So far as getting the proper entries in the record is concerned, that is not within the purview of the authority of the Public Information Officer rather the said matter has to be dealt with separately by the office of District & Sessions Judge, Patiala i.e. this office. This office has already issued the directions to Sh. Rajwinder Singh, Ld. Additional District & Sessions Judge, Patiala vide office Order No. 2639/EV Dated 9.4.2021, that complete entries with regard to the amount in question be got incorporated in the register/record of the District Nazir. Thus this office is already seized of the matter and efforts are being made to get the said record completed. The Public Information Officer will be able to provide the information to the appellant or anyone else as and when the said record is compiled but for the time being he is not able to provide any information. So far as the matter regarding in correct information is concerned, the appellant is at liberty to make an application to this office at administrative side that the copying agency has returned the applications moved by him with the report as pointed out by him. In case any such application is moved by him to this office, the same would be dealt with as per proper procedure. However, in the instant appeal the Public Information Officer cannot be directed to provide any further information as it is not the case of withholding of the information available with the Public Information Officer by him rather he is unable to provide the complete information due to non maintenance of the record in the proper manner by the concerned official and the process to get the said entries completed has already been initiated. No direction as sought for by the appellant can be given to the Public Information Officer in the light of the observations made above. The appeal stands disposed accordingly.”

6. In his Second Appeal, which was received in this Commission on 21.5.2021, the appellant, in addition to decrying the admitted fact that the information furnished by the respondent PIO is “incomplete,” also contends that the said PIO’s initial reply vide Letter No. 1565/RTI dated 4.3.2021, to the RTI application dated 5.1.2021, was delayed by nearly a month. He contends that this is in violation of Section 7(1) of the RTI Act, 2005.

7. However, in a reply to this Commission’s Notice of Hearing, vide Letter No. 5929/RTI dated 23.8.2021, the respondent PIO states that the appellant was duly apprised vide Letter No. 896/RTI dated 4.2.2021 and Letter No. 1166/RTI dated 17.2.2021 that a large volume of record needed to be verified, so it would take additional time to provide the information to him. The delay in providing the initial reply to the RTI application along with the available information, was evidently not intentional or deliberate and so liable to be condoned.

8. As regards the incomplete / pending information highlighted in both, the First Appeal and this Second Appeal by the appellant, and effectively admitted in the PIO’s replies to the appellant as well as the FAA’s Ruling of 10.5.2021, it is evident that the incomplete / pending information is not available because of poor maintenance of records by the concerned officer, in this instance, the previous Nazir in the office of the District & Sessions Judge Patiala. As per the FAA’s Final Order of 10.5.2021, the said official Sh. Pardeep Kumar is already under suspension and facing a departmental enquiry for his lapses. The respondents have further informed that the District & Sessions Judge Patiala has already issued directions to Sh. Rajwinder Singh, Ld. Additional District & Sessions Judge Patiala vide Office Order No. 2639/EB dated 9.4.2021 that “complete entries with regard to the amount in question be got incorporated in the register / record of the District Nazir.”

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9. The aforesaid incomplete / pending information / record is in fact that must be maintained and periodically updated by all public authorities as per Section 4 of the RTI Act, 2005, which reads as under:

4. Obligations of public authorities

(1) Every public authority shall—

(a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;

(b) publish within one hundred and twenty days from the enactment of this Act,—

(i) the particulars of its organisation, functions and duties;

(ii) the powers and duties of its officers and employees;

(iii) the procedure followed in the decision making process, including channels of supervision and accountability;

(iv) the norms set by it for the discharge of its functions;

(v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;

(vi) a statement of the categories of documents that are held by it or under its control;

(vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;

(viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;

(ix) a directory of its officers and employees;

(x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;

(xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;

(xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;

(xiii) particulars of recipients of concessions, permits or authorizations granted by it;

(xiv) details in respect of the information, available to or held by it, reduced in an electronic form;

(xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;

(xvi) the names, designations and other particulars of the Public Information Officers;

(xvii) such other information as may be prescribed, and thereafter update these publications every year;

(c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;

(d) provide reasons for its administrative or quasi judicial decisions to affected persons.

(2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.

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(3) For the purpose of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.

(4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed. Explanation.—For the purposes of sub-sections (3) and (4), “disseminated” means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.

10. The respondent PIO has relied on the Central Information Commission’s (CIC) Order dated 8.8.2017 in the Case titled “*Vimal Kumar Sirohi vs CPIO*,” to contend that “only such information as is available and existing and held by the Public Authority or is under control of the public authority can be provided. The Public Information Officer is not supposed to create information that is not a part of the record.” However, as already pointed out above, the requested information is part of the record that the all public authorities, in this instance, the office of the District & Sessions Judge Patiala, are obligated to maintain and make accessible to all citizens, as per the RTI Act, 2005.

11. Here, this Commission takes note of the fact that the Ld. District & Sessions Judge Patiala has already instructed the Ld. Additional District & Sessions Judge Patiala vide Office Order No. 2639/EB dated 9.4.2021, that the “complete entries with regard to the amount in question be got incorporated in the register / record of the District Nazir.”

12. This Commission directs the respondent PIO-cum-Superintendent, office of District & Sessions Judge Patiala to retrieve the record / information as soon as the aforesaid entries have been incorporated, and provide duly attested copies of the same, to the appellant, without any further delay. The respondent PIO is further directed that, if need be, he can seek the assistance of any official of the District & Sessions Court at Patiala under Section 5(4) and 5(5) of the RTI Act, to procure said record as soon as the same has been incorporated / updated, as per the directions of the Ld. District & Sessions Judge, Patiala. The Appeal is accordingly **Disposed of**.

Sd/-
(ASIT JOLLY)
State Information Commissioner, Punjab.

Chandigarh
3.1.2023