



Sh. Akash Verma,
80, New Officers Colony,
Stadium Road, Patiala..

... Appellant

Versus

Public Information Officer,
O/o Secretary, General,
SOS Children's Village National Office,
Plot-4,Block C-1, Institutional Area,
Nelson Mandela Marg, Vasant Kunj,
New Delhi.

First Appellate Authority,
O/o Secretary, General,
SOS Children's Village National Office,
Plot-4,Block C-1, Institutional Area,
Nelson Mandela Marg, Vasant Kunj,
New Delhi.

...Respondent

Appeal Case No. 82 of 2021

PRESENT: Sh.Akash Verma as the Complainant
Sh.Pardeep Kumar Jarwal, OSD/HR for the Respondent

ORDER:

The appellant through RTI application dated 31.08.2020 has sought information regarding details of donations collected through outsourced contracts from fundraising companies – name & details of agencies with whom contract has been entered - amount/percentage of donations collected & details of commission paid to outsource agencies – date on which SOS CV has entered into fundraising agreement with along with a certified copy of the agreement with Give India, Syrex Info Pvt Ltd, Spiceflash, APPCO –a certified copy of entre banking/financial transactions, bank drafts, cheque financial receipts – detail of first appellate authority and other information as enumerated in the RTI application, concerning the office of Secretary-General, SOS Children's village National office New Delhi. The appellant was not satisfied with the reply of the PIO dated 12.10.2020 after which the appellant filed first appeal before the First Appellate Authority on 30.10.2020 which disposed of the appeal on 25.11.020.

The case was first heard by a Single Bench of Sh.Khushwant Singh on 13.05.2021 before through video conferencing at DAC Patiala. The respondent was absent. The case was adjourned.

On the date of the next hearing on **17.08.2021**, the commission received a reply from the PIO on 29.06.2021 which was taken on the file of the Commission. In the reply, the PIO had mentioned -

“That the respondent is a non-government organization society registered under the Indian Societies Registration Act, 1860 at New Delhi on 12th March 1964. The organization consists of 32 Children's Villages, about 8 SOS – Hermann Gmeiner Schools SOS Children's Village situated at Rajpura Punjab is only one amongst these 32 villages. SOS CV Rajpura has been set up in a piece of land leased by the Government of Punjab vide lease deed of 1994.

That the application of the RTI Act and its provisions on society is not based on the State or Union Territory in which the Society is registered. The Respondent organization does not fall within the definition of a Non-Government Organization substantially financed by the government of Punjab.

That the SOS CVI does not come within the definition of Public Authority under section 2(h) of the RTI Act 2005.”

The appellant filed objections which were received in the Commission on 01.07.2021 and taken on the file of the Commission.

The appellant stated that the respondent cannot deny the information since it has been granted PAN u/s 80(G) (iv) of IT Act 1961 by Director Income Tax Delhi on 11.07.2011 with some conditions. That it is a public authority as the SOS Children’s village in Rajpura has been built on land leased by the Government of Punjab.

After going through the submissions, written and oral of the respondent and the appellant respectively, the matter before the commission was in two parts-

- 1) Firstly, whether the Punjab State Information has jurisdiction to listen to this appeal or not. This matter has arisen on two grounds, a) the appellant had filed the RTI application to the office of the Secretary General , SOS Children’s Villages of India located in New Delhi; b) The respondent has claimed that it is a non-government organization society registered under the Indian Societies Registration Act, 1860 at New Delhi on 12th March 1964. The organization consists of 32 Children’s Villages, about 8 SOS – Hermann Gmeiner Schools and SOS Children’s Village situated at Rajpura Punjab is only one amongst these 32 villages.
- 2) Secondly, that whether SOS Children’s Villages of India is a public authority and falls under the preview of the RTI Act?

At that hearing, the Commission was inclined to deal with the first point. i.e. regarding the jurisdiction of the PSIC to listen to this case.

Given the above, the Commission directed the Secretary-General, SOS Children’s Villages of India, New Delhi to file an affidavit stating the organizational charter of the organization, its history of inception and growth, as well as the station where it files its income tax returns.

On the date of last hearing on **13.12.2021**, the Commission received a reply of the appellant on 14.09.2021 which was taken on the file of the Commission.

The case was sent to the Hon’ble Chief Information Commissioner to constitute a larger bench.

The case has come up for hearing today **before this Bench**. The Commission has received an affidavit of the respondent dated 16.12.2021 which has been taken on record. In the said affidavit, the respondent has reiterated their earlier plea that the respondent organization does not fall within the definition of a Non-Government Organization substantially financed by the government of Punjab since it is a non-government organization society registered under the Indian Societies Registration Act, 1860 at New Delhi on 12th March 1964 and that the organization consists of 32 Children’s Villages, about 8 SOS – Hermann Gmeiner Schools SOS Children’s Village situated at Rajpura Punjab is only one amongst these 32 villages.

The appellant contested the claim of the respondent and informed that in an earlier complainant case No.384 of 2018 titled CC Gupta V/s PIO-SOS, CV Rajpura wherein the SOS-CV claimed that the SOS- CV is not a public authority and there existed no PIO in any of the constituent units of SOS-CV including that of SOS-CV Rajpura, which was heard by Prof.Viney Kapoor Mehra, State Information Commissioner on 26.09.2018 and a show cause notice was issued to the PIO with the direction to file an affidavit and appear personally on the next date of hearing. In compliance with the order of the Commission, the requisite information was supplied to the complainant with a copy to the Commission.

The appellant further informed that in another appeal case No.1045 of 2020 titled Akash Verma V/s PIO-SOS, CV Rajpura, in compliance of the order dated 16.06.2020 of Sh.Avtar Singh Kaler, State Information Commissioner, Sudarshan Suchi Secretary General, SOS CV New Delhi replied and pleaded that the appellant be directed (A) to file all relevant material before FAA New Delhi (B) remit back the case to FAA (C) appellant be directed to appear before FAA. Thereafter, vide order dated 08.07.2020, Sh.Avtar Singh Kaler, State Information Commissioner directed the PIO to send information within 5 days and in case of non-compliance of the order of the Commission, strict action will be taken against the PIO under the provisions of RTI Act. However, the reply was filed by Sudarshan Suchi, Secretary General, SOS CV New Delhi as First Appellate Authority and supplied incomplete information vide letter dated 10.07.2020. In response, the appellant filed objections on 11.07.2020 against which the PIO-SOS CV Rajpura supplied partial information vide letter dated 31.07.2020 with a recommendation to file fresh RTI application with the SOS New Delhi to get the remaining information and the case was disposed of on 06.08.2020.

The appellant further stated that on the one side the CPIO-SOS CV Delhi vide letter dated 12.10.2020 replied that since SOSCV of India does not fall within the definition of Public Authority, the information cannot be made available whereas in a reply, it was informed that since the office of FAA was vacant since 16th May 2019 to 06th Oct. 2019, immediate reply to the appeal could not be furnished. However, subsequently, pursuant to the direction of the State Information Commissioner dated 08.07.2020, the appeal was responded by the First Appellate Authority vide communication dated 10.07.2020. Further since the SOS CV Rajpura which receives the grant from the State, falls within the jurisdiction of the State of Punjab which is the appropriate government and appropriate forum is State Information Commission, Punjab. It is also mentioned herein that point-4 of the ground set out in the Appeal under reply has been dealt with at the relevant point of time by the State Information Commission, Chandigarh and directions passed pursuant thereto have been accordantly complied by the SOS CV Rajpura and cannot be re-agitated.

From the facts given above, and hearing both the parties, the Commission observes that on the one side, the respondent is saying that they are not the public authority; on the other hand, they are saying that their First Appellate Authority is SOS CV Delhi and can reply to the RTI application.

Given the facts above, it is apparently clear that SOS-CV Rajpura is a Public Authority and falls within the purview of the definition of Public Authority as contained in Section 2(h) of the RTI Act 2005, hence the appropriate forum is State Information Commission Punjab. The Commission under the powers vested under section 19(8) of the RTI Act directs the Secretary, General, SOS Children's Village National Office to appoint their First Appellate Authority in the State of Punjab.

To come up for further hearing on **12.10.2022 at 02.00 P.M.**

Chandigarh
Dated 04.07.2022
Commissioner

Sd/-
(Maninder Singh Patti)
State Information Commissioner

Sd/-
(Khushwant Singh)
State Information

CC:- Sh Maninder Singh Patti, State Information Commission,
Punjab.



Shri Lajpat Rai Garg S/o Sh. Harbas Lal,
Romana Street, JAITO,
Tehsil Jaito, District Faridkot.

.... Complainant

Versus

Public Information Officer,
O/o The Executive Officer,
Nagar Panchayat,
Chamkaur Sahib,

...Respondents

COMPLAINT CASE NO. 0770/2021 & 771/2021

PRESENT: None for the Complainant
Sh.Avtar Chand, EO for the Respondent

ORDER:

The Complainant through RTI application dated 29.04.2021 sought some information as enumerated in the RTI application. The complainant was not provided the information after which the complainant filed a complaint in the Commission on 16.06.2021.

The case was first heard by the Bench of Sh.Maninder Singh Patti State Information Commissioner on 01.12.2021. The order was reserved. The decision was pronounced on 04.01.2022 with the following observations:

Information Sought in CC: 770/2021:

1. Give me fully Audit reports from 01/01/2012 to 30/4/2021, including deposited fee & details given to audit department for audit purpose and receipts of deposited amount for filing audit notes.
2. Give fully registers of all office, receipt, deposits, RTI movement, attendant office, sanitation staff and on contract rate staff from 10/3/2021 to 30/4/2021, including pay given details and also general cashbook + all cash books photo copy clears, attested in accurate shape + RTI cash book.
3. Give record in pendrive from 25/01/2020 to 30/4/2021 as collecting the property tax and properties transfer by EO, building maps deposited in office all record in PAN drive given, also give list of rented persons who defalat for payment of rent, information also further proceeding done.
4. Give details fully files photo copies attested related with payments done to the persons. Payment done Rs(7,30,814, 260,600, 3,69,29260) these payments done 19/07/2019, Rs(2,14,400) Rs (3,88,800) dated 12/08/2019, (Rs Two lacs + Rs 25962 dated 06/8/2019) (Rs 93,700, cheque no. 5202, Rs 1000 cheque no. 52023, Rs 52000 cheque no 5204 paid to sajan kumar, Rs 5,50,000 cheque no 52026, Rs 1,70,000 cheque no 52027 shivalik cool society) all payment done on 06/8/2019) (Rs 2,85,360 2/4 cheque no 0517 dated 26/8/2019) & (Rs 32870 cheque no 00513, Rs 1,90,400 cheque no 00514) dated (14/8/2019) related record as good purchases copy of bills, stock interies, bills and contracter payment done then copies of (M.B) where bill payment inters.
5. Harjit singh clerk attended my case no 365/2020, 311/2021, give copies of authority letters and give copies of State Information orders related to N.P Chamkaur Sahib, all orders, RTI's demanded copies, office notings fully record office notings & copies of answers given to party & State Information Commission & claims (TA?DA) claimed by employees in RTI cases from 1/1/16 to 30/4/2021 also gave bill & photocopies & also contingent bill copy from 29/4/2021). **NOTE:** You are irresponsible PIO & violating the RTI Act 2005, give me Information soon, if not given , I will go to the higher Authorities. Note: Demand of Documentation fees point wise in ten Days.

COMPLAINT CASE NO. 0770/2021 & 771/2021

Information Sought in CC: 771/2021:

1. As dated 14/8/2019 paid Rs 1,94,602 = 00 About give details including tender forms, advertisement, work order fully file for payment done as supplies given to office for electric points located in M.C limit, & all photo copies of all bills send by electricity office from 1/1/18 to 30/4/18, and as bill filled with fine, Name of responsible employee, his name, rank & done proceeding.
2. Give fully file of appointment of HARJIT SINGH CLERK as (2013-14) as anytime, & form no. 16 A from 1/1/16 to 30/4/2021, and also office orders copies of duty as which branch from 2013-14 to up to date.
3. As unauthorized colonies (city centre 4.5 acres) (Pirthi chand enclave 1.9 acres) (Bahadur enclave 4.5 acres)(Sahibjada Ajit Singh Jughar Singh enclave 2.37 acres,(Fateh chand enclave 10.50 acres) give all colonies map, amount deposited fees receipts, balance amount, & balance amount to be recovering proceeding done against them fully information including court case etc. fully files.
4. Give fully files photostates as payments done, approval for expenses, bill, stock entry page, cash book page as payments on (2/8/2019 done as (18800),(53073)(9,28,533)(25099 Eo pay)(10226)also give fully details of pay of employees of office/sanitation/contract basis from 10/3/2021 to 30/4/2021 photocopies pay bills.
5. Give details of rent shops of Nagar Panchayat, rent demand collection registers photocopy, details of Sublette, defaulters and proceeding done against them give fully details in Pan drive of rent & from 10/3/2021 to 30/4/2021 & licence fees details from 1/1/15 to 30/4/2021 also inn Pan drive.
6. Office receipts/dispatch including RTI, cash book RTI, movement register, attendance register, general ash book, urban mission cash book, copies of challans u/s 195,195 A,172, including receipts of deposited fee of challances and building application registers from 1/1/2019 to 30/6/19 from 20/4/2021 to 29.4.2021.

NOTE: you are irresponsible PIO & violating the RTI Act 2005, give me information soon, if not given I will go to the higher Authorities, Note: Demand of documentation fees point wise in ten days.

It is further stated that in view of the aforesaid RTI Application dated 29.04.2021, the Respondent i.e., Public Information Officer O/o EO, Nagar Panchayat, Sri Chamkaur Sahib vide his letter no. 252 dated 13.05.2021 supplied the reply pertaining to the information sought by the appellant. Wherein it was mentioned that, the sought information enumerated in the RTI application is vague (or not specific) and for this he called the applicant in his office for file inspection, but he never turned up.

Being aggrieved by the non-receipt of the information the complainant approached Commission under the provisions of Section 18 of the RTI Act, 2005, which were taken up for hearing on 01.12.2021.

At the time of hearing, upon going through the contents of the Applications filed by the complainant, the Bench observed that as per the Hon'ble Supreme Court of India's order dated 12.12.2011 in Civil Appeal Nos.10787 – 10788 of 2011 (arising out of SLP © No.32768- 32769/2010) in which it has held that while entertaining a complaint under Section 18 of the RTI Act, 2005, the Commissioners have no jurisdiction to pass an order providing for an access to the information. Therefore this Bench transpired the complainant that an alternative and efficacious remedy of first appeal is available to the complainant under Section 19(1) of the RTI Act, 2005 which has not been availed in the instant case. So the case has to be remand back to the FAA (First appellant authority).

However, rather than following the specific advice by the Bench to the complainant who appeared in person, he adopted a totally unacceptable attitude and tried to dodge the remedy given to him. The complainant Sh. Lajpat Rai Garg in a totally unruly language stated that "I don't want the information, just give me the compensation amount and impose penalty of Rs. 25,000/- on the concerned PIO". When the Bench confronted the complainant with the fact that he

cannot be permitted to misuse the provision of RTI Act to settle his personal scores with Public Authorities he had the audacity to state that he does not wishes argue the matter before this Bench. Such conduct of the Appellant is totally reprehensible and goes against the spirit and objective of the RTI Act.

The appellant abused Right to Information and also used insinuate and defamatory language against this deemed undersigned bench repeatedly. He had also, mentioned in his RTI application as a NOTE "you are irresponsible PIO & violating the RTI Act 2005."

In P. Jayasankar vs.Chief Secretary to Government of Tamilnadu and Gunaseelan, 4/4 I.P.S. decided by Madras High Court on 18.2.2013, it was held that "no information seeker can be allowed to insinuate or defame the Commissioners in the guise of prosecuting their cases"....

Under such circumstances, when specific power is vested on the Commissioner and the Commission had proceeded against the information seeker, who had abused the Information Commissioner in the course of his proceedings; it will be open to the said authority to disqualify a particular information seeker by passing a speaking order. Commission, preferred to admonish him.

Thus in view of the discussion contained in the forgoing paragraphs, this Bench deems it prudent to refer this appeal case to the Hon'ble Chief Information Commissioner for reassignment to a Double Bench or Full Bench as he sees fit. The case files are sent to the Deputy Registrar for placing the same before Hon'ble CIC for appropriate Orders."

The case has come up for hearing before this Bench today. Sh.Avtar Chand, EO-NC Chamkaur Sahib is present on behalf of the Respondent PIO. The respondent reiterated their earlier plea that since the information was not specific, the appellant was asked vide letter dated 13.05.2021 to inspect the record and get the relevant information but the appellant did not turn up and filed a complaint in the Commission. The respondent further pleaded that the complainant is habitual in filing unnecessary and unspecific RTI applications.

The complainant is absent and vide letter received in the Commission on 22.06.2022 has sought exemption due to his personal appearance before the ADSJ Faridkot.

Having gone through the record, the Commission observes that the RTI application was filed on 29.04.2021 and the reply was sent by the PIO on 13.05.2021 within the time prescribed under the RTI Act.

Further since it is a complaint case and the complainant has come to the Commission under the provision of Section 18 of the RTI Act, 2005 in which no directions for providing further information can be given by the Commission.

The Hon'ble Supreme Court of India in its Order dated 12.12.2011 in Civil Appeal Nos.10787-10788 of 2011 (arising out of SLP No.32768-32769/2010) has held that while entertaining a complaint under Section 18 of the RTI Act, 2005, the Commissioners have no jurisdiction to pass an order providing for an access to the information.

Since the RTI application has been replied within the time prescribed under the RTI Act, if the complaint is not satisfied, he should go to the First Appellate Authority.

With the above observations and order, the case is **disposed of and closed**.

Chandigarh (Maninder Singh Patti) (Khushwant Singh)
Dated 04.07.2022 State Information Commissioner State Information Commissioner

CC:- Sh Maninder Singh Patti, State Information Commssion, Punjab.