



Sh. Manjit Singh,  
S/o Sh. Sohan Singh,  
R/o #388/3, Dhandholian Road,  
Patiala.

Complainant

Versus

Public Information Officer,  
O/o General Manager,  
Verka Milk Plant,  
Bathinda.

Respondent

**Complaint Case No.102/2019, 103/2019 and 104/2019**

| Date of RTI Application | Date of Reply, if any of SPIO | Date of First Appeal made, if any | Date of order, if any of FAA | Date of Second Appeal/ Complaint |
|-------------------------|-------------------------------|-----------------------------------|------------------------------|----------------------------------|
| 05.11.2018              | Nil                           | Nil                               | Nil                          | 23.01.2019                       |

**Order**

The Commission had made following observations on 06.08.2019

02.07.2019

*“The Complainant and the respondent are the same and a common question of law is involved. Therefore, aforementioned complaints shall be disposed of by a single order.*

*The respondents are absent. They have filed a detailed reply, primarily taking the plea that they are not a public authority within the meaning of Section 2(h) of the RTI Act. It has been stated in the reply that stay has been granted by the Hon'ble High Court in CWP No.20904 of 2015- Punjab State Cooperative Bank Ltd. vs. State Information Commissioner. It has also been stated that stay on the proceedings in Commission in another case of Milk Plant, Bathinda, in CWP No.10668 of 2015 has also been granted. However, it does not figure on record. The respondents are directed to produce the copy of stay order as*

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*contended by them before the next date of hearing so as to enable this Forum to take a considered view in the matter. The complainant may like to file a rejoinder to the reply filed by the respondents in case he desires to.*

06.08.2019

*In compliance with the aforementioned order, the respondents have placed a copy of the order passed in the CWP No. 10668 of 2015. The Commission has gone through it. The Hon'ble Judge of the High Court of Punjab and Haryana has specifically mentioned not to take any cognizance of the observations made therein with reference to the declaration of the respondents as a public authority. It has only decided on the issue of award of compensation and a show cause notice issued by the Commission for imposition of penalty.*

*The respondents have filed a detailed reply, a copy of which has been handed over to the complainant. In order to arrive at an informed decision, the Commission directs the respondents to provide a copy of its by-laws and balance sheet of the financial year last audited. The complainant may file a written rejoinder on the submissions thus made by the respondents, in case he desires so."*

The order was reserved for pronouncement on 31.10.2019 and both the parties were present. The respondents had submitted their balance sheet for the year 2018. Its perusal does not suggest that the Government has a share in the Society much less a

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substantial one. The Complainant has also filed a written reply in which it has been contended that the activities of the respondents are monopolistic and public in nature. He further says that there is a lot of corruption and irregularity in its functions and therefore it is required to be transparent and accountable in terms of provisions of the RTI Act.

The respondents reiterate that they are not a Public Authority within the meaning of Section 2 (h) of the RTI Act as has been explained in detail in the judgment passed by the Hon'ble Supreme Court of India in Civil Appeal No. 9017 of 2013 -Thalappalam Ser. Coop. Bank Ltd. Vs State of Kerala and others. The Commission has given its thoughtful consideration to the submissions made. In Civil Writ Petition No. 20904/2015 the respondents have challenged the order of the Commission in treating it as a Public Authority. The Commission feels that it shall be prudent to wait for its decision.

The Complaint as such is kept **sine die** and shall be taken up as and when the matter is finalized by the Hon'ble High Court of Punjab and Haryana.

04.12.2019

Sd/-  
(Preety Chawla)  
State Information Commissioner

Sd/-  
( Yashvir Mahajan )  
State Information Commissioner

CC: PS/SIC (Smt. Preety Chawla) for the kind information of Ld. SIC.



Sh. Bhagwan Singh,  
VPO- Harpalpur, Tehsil-Rajpura,  
Distt. Patiala.

Appellant

Versus

Public Information Officer,  
O/o Co-operative Agriculture Development Bank,  
Ghanaur, District-Patiala.

First Appellate Authority,  
O/o Co-operative Agriculture Development Bank,  
Ghanaur, District-Patiala.

Respondents

**Appeal Case No.389/2019**

| Date of RTI Application | Date of Reply, if any of SPIO | Date of First Appeal made, if any | Date of order, if any of FAA | Date of Second Appeal/ Complaint |
|-------------------------|-------------------------------|-----------------------------------|------------------------------|----------------------------------|
| 13.11.2018              | Nil                           | 27.11.2018                        | Nil                          | 16.01.2019                       |

**ORDER**

The following order was made by the Commission on 31.10.2019:

04.06.2019:

*"The appellant has sought information from the respondents about the loans having been given with details of schemes by the respondent Bank during the period from year 2006 to 2010. The respondents claim that they are third party and had already agitated the issue in the Hon'ble High Court who has been pleased to stay the order passed by the Commission way back in the year 2010. The respondents state that the issue is still pending and have produced photocopies of the documents extracted from the website of the Punjab and Haryana High Court which do not lead us anywhere.*

*The Commission finds that the civil writ petition pertains to the year 2010. The appellant has produced before us a blanket order of the Hon'ble Punjab & Haryana High Court passed in the year 2011, in CWP No.19234/2006 titled The Hindi Urban Coop. Bank Ltd. Vs. The State Information Commission & ors.; CWP No.19481/2006- The Punjab State Coop. Bank Ltd. Vs. The State Information Commission & ors.; CWP No.1835/2007- The Zenith Cooperative House Building Society Ltd., Ludhiana vs. The State Information Commission & others.; CWP No.4790/2007- The Haryana State Coop. Agricultural and Rural*

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**Appeal Case No.389/2019**

*Development Bank Ltd. Vs. The State Information Commission & ors.; CWP No.17732 TO 17735 of 2009 vs. The State Information Commission & ors.; and similarly placed organizations wherein they have been declared as public authorities as defined in Section 2(h) of the RTI Act, 2005.*

*The Commission feels that the respondents are misrepresenting and misleading this Forum. The PIO, Baljinder Singh, Manager is hereby directed to file a written affidavit as to why he should not be proceeded against for having violated the provisions of RTI Act. They have failed to submit the information by quoting the issue which has already been decided. He should note that no further opportunity will be provided.”*

06.08.2019

*Sh. Jai Dev, Assistant Manager, is present. He maintains his position that they are not a Cooperative Society by virtue of a stay granted to them by the Hon'ble High Court of Punjab and Haryana. The appellant has provided a copy of an order passed on 09.05.2011 by the Hon'ble High Court of Punjab and Haryana which declares scores of Societies and Cooperative Banks as a public authority, Milk Producers Union society is also a petitioner in the same. Sh. Jai Dev further admits that the functioning of the respondent is dependent upon loans and grants of National Bank for Agriculture and Rural Development which undeniably is a branch of Reserve Bank of India. In the face of these facts, the Commission is inclined to believe that the stay granted cannot be operative after the judgment on the issue has been passed after clubbing all the writ petitions on the subject.*

*The Commission believes that the respondents are willfully defying to become the RTI-compliant, when they are discharging a public function with the assistance of the government funds. The Commission holds the PIO, Sh. Baljinder Singh, to have violated the provisions of section 7(1) of the Right to Information Act, 2005.*



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*He is hereby issued a show cause notice to explain in a self- attested affidavit as to why a penalty @ Rs.250/- per day of delay subject to maximum of Rs.25,000/- till the complete information is furnished, be not imposed under Section 20(1) of RTI Act, 2005 on him for causing willful delay / denial of the information to the RTI applicant and why the compensation be not awarded to the Complainant under Section 19 (8) (b) of the Act for the detriment suffered by him.*

*In addition to the written reply, the PIO is also given an opportunity under Section 20 (1) proviso thereto, for a personal hearing before the imposition of such penalty on the next date of hearing. He may take note that in case he does not file his written reply and does not avail himself of the opportunity of personal hearing on the date fixed, it will be presumed that he has nothing to say and the Commission shall proceed to take further proceedings against him ex parte.”*

*The case has come up today. Sh. Jai Dev, Assistant Manager, has appeared on behalf of respondents. The Commission would like to observe that the word “Co-operative Society” figuring in Para 3 of the order passed on 06.08.2019 has inadvertently figured in place of public authority and it should be read so for future reference, if any. Advocate Gurnaad Singh, counsel for respondents, has filed a detailed written reply, wherein, it has been submitted that the order of the Hon’ble High Court of Punjab and Haryana, referred in the Commission’s order reproduced above, passed in various civil writ petitions in year 2011, have since been sent aside by an order of the double bench passed on 12.12.2013 in matter of LPA No.1174 of 2011. Consequently, in terms of the orders passed in LPA, the Commission is obliged to consider the matter independently in the case in hand on the basis of the facts and merits. A copy of the detailed reply has been provided to the appellant also. He may like to file rejoinder to the submissions thus made, if any.*

31.10.2019

*The case has come up today. Sh. Jai Dev, Assistant Manager, is present. Sh. Gurnaad Singh Virdi, Counsel for respondents reiterates the argument submitted in his*



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*rejoinder dated 25.09.2019. He has nothing more to add.*

*The order is reserved and shall be pronounced in due course.”*

The order was reserved for pronouncement on 31.10.2019 and both the parties were present. On last date of hearing, the respondents had submitted a detailed reply. The respondents have suggested some factual inaccuracies in aforesaid orders to the extent that NABARD is not an arm of the Reserve Bank of India and is an independent bank like any other Public Sector Bank. The Commission agrees and stands corrected. It has further been reiterated that they are not Public Authority on the grounds that they are neither owned nor controlled or substantially financed by the Government as per the law laid down in Civil Appeal No. 9017 of 2013 Thalappalam Ser. Coop. Bank Ltd. Vs State of Kerala and others.

The appellant has not been able to rebut their contentions. The effective control is being made by the management of the Board in which the Government has no significant participation. The assistance, if any, of the Government is not to the extent that can disrupt its normal functioning. The Commission is inclined to take view that the Cooperative Agriculture Bank, Ghanaur, as of now in terms of the law laid down by the Hon'ble Supreme Court of India in its judgment in Civil Appeal No. 9017 of 2013 is not a Public Authority as defined in Section 2 (h) (d) (ii) of the RTI Act. The appeal is decided accordingly.

**Disposed.**

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|-------------------|---|--|
| <b>04.12.2019</b> | <b>Sd/-<br/>(Preety Chawla)<br/>State Information Commissioner</b>      | <b>Sd/-<br/>( Yashvir Mahajan )<br/>State Information Commissioner</b> |
| <b>CC:</b>        | <b>PS/SIC (Smt. Preety Chawla) for the kind information of Ld. SIC.</b> |  |