

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



Gaganpreet Singh (Advocate),
S/o Sh. Gurinder Pal Singh,
Chamber No. 8039, 8th Floor,
New Court Complex, Part-II,
District Ludhiana.

Versus

Public Information Officer,
o/o Chairman / Executive Officer,
Ludhiana Improvement Trust,
District Ludhiana.

First Appellate Authority,
o/o Chairman / Executive Officer,
Ludhiana Improvement Trust,
District Ludhiana.

Appeal Case No. 236 of 2021

ORDER:

(This Order was reserved on 20.8.2021)

1. The RTI application is dated **5.10.2020** vide which the appellant sought information as enumerated in said application. Dissatisfied with the respondent PIO's reply vide Letter No. 6235 dated **18.11.2020**, wherein the requested information was denied to him as "third party information," the appellant filed a First appeal with the First Appellate Authority (FAA) on **9.11.2020**. He thereafter filed this Second Appeal in the Commission on **31.12.2020** under Section 19 of the Right to Information Act, 2005. Notice was issued to the parties for first hearing in the Commission on **12.5.2021**.

2. A perusal of the case file reveals that the appellant Gaganpreet Singh has sought the following information from the Public Information Officer (PIO), office of the Chairman / Executive Officer, Ludhiana Improvement Trust, Ludhiana.

- 1] Details when land was allotted to DMC Hospital, Ludhiana by Ludhiana Improvement Trust.
- 2] Copy of allotment letter issued in favour of DMC Hospital, Ludhiana by Ludhiana Improvement Trust.
- 3] Copy of resolution under which the land was allotted.
- 4] Whether the land was given under some scheme or was allotted in auction.

3. At the last (first) hearing of this Appeal Case, both parties were present via video conferencing on CISCO WEBEX.

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4. The respondent PIO, represented by Yadwinder Singh (Accountant) and Ms. Chetna (advocate) made a written submission vide Letter No. 3097 dated 8.6.2021. To support the decision to deny disclosure of the requested information to the appellant, the respondent PIO cites the following decisions by superior courts and the information commissions of Punjab and Haryana:

- *Rohit Sabharwal vs Public Information Officer, o/o Dayanand Medical College and Hospital, Complaint Case No. 298 of 2012, State Information Commission, Punjab. Full Bench Order dated 5.4.2016.*

- *Puneet Kumar vs State Information Commission, Haryana. Letters Patent Appeal No. 564 of 2017, Punjab & Haryana High Court, dated 27.3.2017.*

- *Munish Kumar Seth vs Public Information Officer, o/o Registrar, Baba Farid University of Health Sciences, Faridkot. Complaint Case 1860 of 2011, State Information Commission, Punjab. Division Bench Order dated 4.5.2012.*

The PIO has made the following contentions: 1] That the Dayanand Medical College and Hospital, Ludhiana does not fall within the purview of the RTI Act 2005 as per an Order dated 5.4.2016 of the Full Bench of the Punjab State Information Commission in Complaint Case No 298 of 2012 (*Rohit Sabharwal vs Public Information Officer, o/o Dayanand Medical College and Hospital*); 2] that the appellant has not given any details like date, month, year, letter number etc for the allotment letter and bid sheet sought in his RTI application; and 3] that the information sought by the appellant pertains to a third party and that third party information cannot be given as per the Hon'ble Punjab & Haryana High Court's Order in *Puneet Kumar vs State Information Commission, Haryana. Letters Patent Appeal No. 564 of 2017, dated 27.3.2017.*

5. It is this Commission's considered view that the respondent PIO's contentions are completely misplaced and not sustainable in law. He rightly states that the Dayanand Medical College and Hospital, Ludhiana does not fall within the purview of the RTI Act, 2005 as per the afore-cited Punjab State Information Commission Order dated 5.4.2016, which reads:

"...we are inclined to hold that the respondent (DMC & Hospital) is not a Public Authority as defined in Section 2(h) (d) (ii) of the RTI Act, 2005"

However, the respondent PIO appears to have lost sight of the fact that this RTI application is addressed not to the DMC Hospital but to him i.e. PIO, office of Chairman / Executive Officer, Ludhiana Improvement Trust, Ludhiana, which is a Public Authority as defined by the RTI Act. The respondent PIO's decision to withhold the requested information based on his contention that the DMC Hospital is not a public authority does not hold.

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6. The respondent PIO's contention that the requested information cannot be supplied because the appellant has not provided details like date, month, year, letter number etc. for the allotment letter and bid sheet sought in his RTI application, is also rejected. The Dayanand Medical College and Hospital, Ludhiana is an institution of considerable repute and it is not conceivable that the respondent PIO would need the above-mentioned details to locate the requested information.

7. The third contention made by the respondent PIO that the information sought is third party information and so cannot be supplied to the appellant, is also not sustainable. The Judgement cited by him to claim exemption from disclosing the requested information - *Puneet Kumar vs State Information Commission, Haryana. Letters Patent Appeal No. 564 of 2017, Punjab & Haryana High Court, dated 27.3.2017*, is as follows:

"6. Considering the provisions of Section 8(1)(j) of the RTI Act, referred to above, the learned Single Judge has rightly observed that "it is apparently a personal information regarding the third party which is being sought for by the petitioner..." In our considered opinion, the finding recorded by the learned Single Judge that the information sought for by the appellant appears to be not bona fide and is in the nature of a fishing inquiry having no relationship to public activity or public interest" cannot be said to be unsustainable in the eyes of law that may warrant interference by this Court. We are in full agreement with the view expressed by the learned Single Judge while deciding the Civil Writ Petition filed by the petitioner (appellant herein)."

The above-cited Division Bench Judgement affirmed the decision of a Single Judge who had rejected a petition challenging an Order of the State Information Commission, Haryana. The aforesaid Judgement was pronounced in a specific case wherein the information sought by the appellant was viewed as "not bona fide" and "in the nature of a fishing inquiry having no relationship to public activity or public interest...." The respondent PIO in the present appeal case has made no claim or contention with regard to the bona fide of the requested information. In any case, the Judgement of the Hon'ble High Court does in no manner grant a blanket exemption from disclosing third party information, particularly in instances where the larger public interest justifies the disclosure of such information.

8. The respondent PIO's contention that the requested information pertains to a third party, in this instance, DMC Hospital, is correct. Third party information is dealt with in Section 11 of the RTI Act, which stipulated a precise procedure that must be followed before any decision on requests for third party information is taken. Section 11 reads as under:

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11. Third party information.—

(1) Where a Central Public Information Officer or the State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

(2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.

The respondent PIO evidently failed to notify the third party in this case and appears to have unilaterally, albeit erroneously, decided that he has recourse to a blanket exemption from disclosing all third party information.

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9. It is also notable here that while the respondent PIO is at pains to deny disclosure of the information requested in this RTI application, a considerable portion of said information is already available in *Rohit Sabharwal vs Public Information Officer, o/o Dayanand Medical College and Hospital, Complaint Case No. 298 of 2012, State Information Commission, Punjab. Full Bench Order dated 5.4.2016*, which is appended to his own submission to this Commission (No. 3097 dated 8.6.2021).

10. The respondent PIO is herewith directed to submit duly attested copies of all the information requested in this RTI application along with a pointwise reply, to this Commission forthwith. Respondent is further directed to notify the third party in this case about this RTI application and the next date of Hearing of this appeal case, in writing under intimation to this Commission. A final decision on whether the information is to be supplied to the appellant, will be taken after the third party has an opportunity to be heard.

11. IMPORTANT! All documents / information supplied to appellants / complainants must mandatorily be attested as under:

Information supplied under the RTI Act, 2005

Signature of the PIO

Name of the PIO

Name of the Public Authority

Date

12. Next hearing on 16.12.2021 at 11.00 am through Video Conference Facility at DC Office, Ludhiana.

Sd/-

(ASIT JOLLY)

State Information Commissioner, Punjab.

Chandigarh

1.11.2021