



Sh Himanshu Raj, Advocate,
C/o # 102, Sector-10-A,
Chandigarh.

... Appellant

Versus

Public Information Officer,
O/o Real Estate Regulatory Authority,
Sector-18, Chandigarh.

First Appellate Authority,
O/o Secretary,
Real Estate Regulatory Authority,
Sector-18, Chandigarh.

...Respondent

Appeal Case No. 3446 of 2021

PRESENT: None for the Appellant
Sh.Vipul Joshi, Advocate and Sh.Jaspal Singh, Legal Officer for the
Respondent

ORDER:

The appellant, through an RTI application dated 14.04.2021, has sought a copy of the complete file about a circular dated 05.03.2021 – notings about seeking legal opinion from Raju Ramachandran Advocate – a copy of reply/legal opinion given by the advocate – allow inspection and other information as enumerated in the RTI application concerning the office of Secretary, Real Estate Regulatory Authority, Pb Chandigarh. The appellant was not provided with the information, after which the appellant filed a first appeal before the First Appellate Authority on 09.06.2021, which did not decide on the appeal.

The case first came up for hearing before Lt Gen Ajae Kumar Sharma(Retd), State Information Commissioner, on 15.09.2021. However, the case was further allotted to this bench vide order of the Hon'ble Chief Information Commissioner on 28.09.2021.

The case last came up for hearing before this **Bench on 05.01.2022**. The representative of the appellant informed that they had received the information except for point-3, which the PIO has denied under section 8(1)(e), whereas they have allowed the inspection of the concerned file.

The respondent was absent. However, the Commission received a reply from the PIO on 30.11.2021, which was taken on record.

Hearing dated 11.04.2022:

Sh.Vipul Joshi, advocate and Sh.Jaspal Singh, the Legal officer are present on behalf of the PIO. The matter for consideration at this hearing is whether point 3, which is a legal opinion given by a senior advocate to the authority, is to be given to the appellant under the RTI Act or not? The respondent RERA had denied the legal opinion under section 8(1)(e) of the RTI Act because of the fiduciary relationship between the authority and the professionally paid legal persons. The respondent had further contended that it was a privilege and right conferred by law on the client to treat as confidential the legal opinion which has been taken by him from the lawyer. The professional communication between a lawyer and a client has always been given a special treatment of confidentiality under the law, and such confidentiality is attached not only to the information furnished by the client to the lawyer but also to the opinion given by the lawyer to the client.

The appellant is absent at this hearing, but during the last hearing, had stated that they had been wrongfully denied the information on point three, whereas they had allowed the inspection of the concerned file. The appellant in the appeal has put forward a claim of a larger public interest in releasing this information. As per the appellant the sought information in point three, an opinion was taken by RERA Punjab regarding the jurisdictions of the authority and the adjudicating officer was in the public interest as he wanted to share the same with the Chairperson of RERA Haryana. As per the appellant, the significance of obtaining that legal opinion had a larger public interest as the jurisdiction pertaining to the authority and adjudicating officers has been under conflict for some time. And since Punjab had resolved the conflict through a legal opinion, the appellant wanted to bring the same in the knowledge of RERA Haryana, for which he had already had a lengthy discussion with the Chairperson RERA Haryana. Thus his requirement for the legal opinion that Punjab RERA had sought from a lawyer on the matter mentioned above.

The matter before the commission is whether to direct RERA Punjab to release the held information in the larger public interest or uphold its decision to deny it under section 8 (1)(e) of the RTI ACT to uphold the fiduciary relationship between a legal professional advisor and a client. Section 8(1)(e) is reproduced hereunder

- “ the information available to a person in his fiduciary relationship unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information.”

Decision

Hearing both the arguments, I uphold the respondent's reply of denying the information under section 8(1)(e). The appellant's argument that he has had a conversation with the RERA Chairperson and wants to share the legal opinion with the Chairperson so that the same can be implemented in RERA Haryana is not a convincing enough argument to allow disclosure of confidential communication between a legal professional and a client. The argument of the appellant is purely based on the assumption that RERA Haryana will implement the legal opinion if he procures it via the RTI ACT from RERA Punjab, whereas it is clear that the professional relationship between a professional legal advisor and a client will be flouted, as well as cause stealing of an intellectual opinion of a lawyer without his due payment. If RERA Haryana is keen on the legal opinion, it can seek the same, or be in touch with its counterpart in Punjab to resolve the matter, which the appellant has flagged.

The case is **disposed of and closed**.

Chandigarh
Dated: 11.04.2022

Sd/-
(Khushwant Singh)
State Information Commission



Sh. Gurdeep Singh,
R/o H No-3023, Agwaar Ladhari,
Rani Wala Khu,
Jagraon, Distt. Ludhiana.

... Appellant

Versus

Public Information Officer,
O/o Civil Surgeon,
Ludhiana.

First Appellate Authority,
O/o Civil Surgeon,
Ludhiana.

...Respondent

Appeal Case No. 3641 of 2020

Present: Sh.Gurdeep Singh as the Appellant
Dr.Manu Assistant Civil Surgeon and Dr.Mandeep Kaur-SMO Sidhwan Bet
for the Respondent

Order:

The appellant through the RTI application dated 20.07.2020 has sought information regarding action taken on the application dated 12.06.2020 and other information concerning the office of Civil Surgeon Ludhiana. The appellant was not provided with the information, after which the appellant filed the first appeal before the First Appellate Authority on 08.09.2020 which took no decision on the appeal.

On the date of the first hearing on 17.03.2021, the appellant claimed that the PIO has not provided the information. The respondent was absent.

Since there has been an enormous delay of more than seven months in attending to the RTI application, the PIO was issued a **show-cause notice under Section 20 of the RTI Act 2005 and directed to file a reply on an affidavit.**

The PIO was again directed to provide the information to the appellant within 10 days and send a compliance report to the Commission.

On the date of the hearing on **15.06.2021**, the appellant claimed that the PIO has not supplied the information.

The PIO was absent without any legitimate reasons for the absence nor had filed a reply to the show-cause notice as well as not provided the information.

The PIO was given one last opportunity to file a reply to the show-cause notice otherwise the Commission will be constrained to act against the PIO under the provisions of section 20 of the RTI Act. The PIO was also directed to provide information to the appellant within 10 days.

On the date of the hearing on 18.08.2021, as per the appellant, the PIO did not supply the information.

The respondent was absent nor had sent any reply to the show cause notice as well as not provided the information.

The PIO was directed to send a reply to the show-cause notice and inform:-

- Who was the PIO when the RTI application was filed?
- Who was the PIO when the show cause notice was issued?
- Who is the present PIO?

On the date of last hearing on **09.02.2022**, the respondent present from the office of SMO Sidhwan Bet informed that the reply has been sent to the appellant on 24.01.2022. As per the appellant, the information was incomplete.

The Commission observed that the RTI application was filed on 20.07.2020 whereas the reply was sent by the SMO Sidhwan Bet on 14.01.2022. However, the appellant had filed an appeal to the office of Civil Surgeon, Ludhiana. However, there had been no response from the office of the Civil Surgeon, nor anyone present at the commission hearing from the office of Civil Surgeon Ludhiana. Even considering the Covid situation and giving the benefit of doubt to the PIO-Civil Surgeon for the delay in information, facts stated that there has been a considerable delay and defiance on the part of the PIO-Civil Surgeon towards attending to the RTI application and the commission's various notices.

Since the responsibility to ensure the timely transmission of the information to the appellant lies on the PIO, the PIO-Civil Surgeon Ludhiana was held guilty for not providing the information within the time prescribed under the RTI Act as well as repeated defiance of the orders of the Punjab State Information Commission to provide the information and for non-appearance, a penalty of **Rs.10,000/-** was imposed on the PIO-Civil Surgeon, Ludhiana (the Civil Surgeon at the time of issuing of the show-cause notice), and directed to produce a copy of the challan as evidence of depositing the penalty in the Govt Treasury.

Hearing dated 11.04.2022:

The case has come up for hearing today through vide conferencing at DAC Ludhiana. The respondent present pleaded that the matter basically relates to the seniority list/service book of the appellant and the appellant in his application dated 12.06.2020 had asked for that is the concerned employee responsible for getting the signature of DDO on the service book of the employee or the concerned department has to get the same, for which the reply was sent to the appellant vide letter dated 14.01.2022. The respondent has again handed over a copy of the reply to the appellant during the hearing.

Regarding the penalty, the PIO has informed through email that the present PIO Dr.S.P.Singh has joined in Oct.2021 and when the RTI application was filed, Dr.Rajesh Bagga was the Civil Surgeon-cum-PIO who had retired on 31.12.2020. Further, when the show cause notice was issued, Dr.Kiran Ahluwalia was the Civil Surgeon-cum-PIO who also retired on 30.09.2021.

Since in this case the information was not provided within the stipulated period, the penalty in terms of provisions of subsection 1 of section 20 of the RTI Act has been imposed. However, the respondent submitted that the then PIOs have since retired from the service (one in Dec.2020 and another on 30.09.2021) on attaining the age of superannuation, thus, recovery cannot be made from the said persons. Hence the order dated 09.02.2021 is repealed.

The case is **disposed of and closed**.

Chandigarh
Dated 11.04.2022

Sd/-
(Khushwant Singh)
State Information Commissioner

PUNJAB STATE INFORMATION COMMISSION

Red Cross Building, Near Rose Garden,

Sector 16, Chandigarh.

Ph: 0172-2864114, Email: - psic30@punjabmail.gov.in

Visit us: - www.infocommpunjab.com



Sh Nitin Kumar Garg,
C/o Police Public Dairy,
15-A, Shastari Nagar, Model Town,
Ludhiana.

... Appellant

Versus

Public Information Officer,
O/o SMO,
Hoshiarpur.

First Appellate Authority,
Civil Surgeon,
Hoshiarpur.

...Respondent

Appeal Case No. 138 of 2021

PRESENT: None for the Appellant
Dr.Jaswinder Singh for the Respondent

ORDER:

The appellant, through RTI application dated 26.08.2020, has sought information regarding comparative statements approved for the purchase of medicine during 01.04.2019 to 28.02.2020 – list of all type amounts received daily from the public in the hospital – amount utilized for medicine purchase and other information as enumerated in the RTI application concerning the office of SMO Hoshiarpur. The appellant was not provided with the information, after which the appellant filed the first appeal before the First Appellate Authority on 01.10.2020, which did not decide on the appeal.

The case first came up for hearing on 11.05.2021 through video conferencing at DAC Ludhiana/Hoshiarpur. The respondent was absent.

The appellant claimed that the information that has been provided by the PIO vide letter dated 02.03.2021 is incomplete. The appellant pointed out the discrepancies, a copy of which was sent to the PIO along with this order.

The PIO was directed to provide further information, if available.

On the next hearing date on **18.08.2021**, both the parties were absent. The PIO was directed to appear personally at the next hearing.

On the date of the last hearing on **09.02.2022**, the appellant informed that the discrepancies were pointed out to the PIO, but the PIO has not supplied the complete information as per the RTI application.

The respondent was absent on 3rd consecutive hearing nor has complied with the order of the Commission to provide complete information. The PIO was issued a **show-cause notice under section 20 of the RTI Act 2005 for not supplying the information within the statutorily prescribed period and directed to file a reply on an affidavit.**

Appeal Case No. 138 of 2021

Hearing dated 11.04.2022:

The case has come up for hearing today through video conferencing at DAC Ludhiana/Hoshiarpur.

The respondent present pleaded that the information had been provided to the appellant. The PIO has also sent a reply to the show-cause notice and it is taken on record.

The appellant is absent and, vide email has informed that he has received complete information as per the RTI application.

Since the information has been provided, no further interference from the Commission is required. The show cause is dropped, and the case is **disposed of and closed**.

Chandigarh
Dated :11.04.2022

Sd/-
(Khushwant Singh)
State Information Commissioner



Sh Bittu, S/o Sh Om Kumar,
Village Bholapur Jhabewal,
P.O Ramgarh, Distt Ludhiana.

... Complainant

Versus

Public Information Officer,
O/o Director,
Health and Family Welfare,
Pb, Sector-34-A, Chandigarh.

...Respondent

Complaint Case No. 522 of 2021

PRESENT: None for the Complainant
None for the Respondent

ORDER:

The complainant, through RTI application dated 19.03.2021, has sought information regarding the date of appointment and posting of Abhinav Khosla Food Safety Officer Sri Mukatsar Sahib – complaints received against Abhinav Khosla – FIRs against Abhinav Khosla and other information as enumerated in the RTI application from the office of Director Health and Family Welfare, Pb Chandigarh. The complainant was not provided with the information, after which the complainant filed a complaint in the Commission on 27.04.2021.

The case last came up for hearing on 29.11.2021 through video conferencing at DAC Ludhiana. The complainant was absent and, vide email, informed that the PIO had not supplied the information.

The Commission received a copy of a letter dated 07.09.2021 vide which the PIO O/o Director Health and Family Welfare, Pb had transferred the RTI application to Food & Drug Administration, Pb Kharar, which further forwarded the same to Civil Surgeon, Sri Mukatsar Sahib with the instructions to provide information to the complainant under intimation to the Commission.

The respondent from the office of Civil Surgeon, Sri Mukatsar Sahib, was absent. The case was adjourned.

Hearing dated 11.04.2022:

The case has come up for hearing today through video conferencing at DAC Ludhiana. The respondent is absent.

The Commission has received a copy of a letter dated 04.02.2022 from the PIO-Food & Drug Administration Kharar vide which the PIO has sent a reply to the complainant that since the information is 3rd party, it cannot be provided as per Punjab Govt. letter dated 09.08.2021.

The complainant is absent for 2nd consecutive hearing and vide email has informed that the PIO has not supplied the information.

Having gone through the record, the Commission observes that since this is a complainant 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.

Complaint Case No. 522 of 2021

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 access to the information.

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 case and the First Appellate Authority has not had the occasion to review the decision of the PIO, as envisaged under the RTI Act by passing a detailed well reason speaking order.

If, however, the complainant does not feel satisfied with the decision of the First Appellate Authority, he/she will be at liberty to file a Second Appeal before the Commission under Section 19(3) of the RTI Act.,2005.

Given the observations noted above, the instant case is remanded back to the concerned First Appellate Authority-cum-Commissioner, Food & Drug Administration, Kharar with a copy of the RTI application for their ready reference and is also directed to call the complainant within 15 days of the receipt of the order, provide the information/reply about this RTI application. A compliance report of the same be sent to the Commission.

The case is **disposed of and closed** with the above observation and order.

Chandigarh
Dated: 11.04.2022

Sd/-
(Khushwant Singh)
State Information Commission

CC to : First Appellate Authority-cum-Commissioner,
Food & Drug Administration, Kharar



Sh Lajpat Rai, S/o Sh Harbans Lal,
R/o Roamana Street, Tehsil Jaito,
Distt Faridkot.

... Appellant

Versus

Public Information Officer,
O/o SSP,
Distt Faridkot.

First Appellate Authority,
O/o SSP,
Faridkot.

...Respondent

Appeal Case No. 2192 of 2021

PRESENT: Sh.Lajpat Rai as the Appellant
Sh.Ramesh Kumar, ASI for the Respondent

ORDER:

The appellant, through RTI application dated 28.07.2020, has sought information regarding a status report on the RTI applications filed from 20.05.2020 till date – detail/status of FRI No.80 dated 30.05.2020 – retirement date of Daljit Singh ASI/FDK – List of employees in police station Jaito and other information as enumerated in the RTI application from the office of SSP Faridkot. The appellant was not provided with the information, after which the appellant filed a first appeal before the First Appellate Authority on 12.03.2021, which did not decide on the appeal.

The case last came up for hearing on 29.11.2021 through video conferencing at DAC Faridkot. Due to a network problem in the VC, the hearing could not occur. The case was adjourned.

Hearing dated 11.04.2022:

The case has come up for hearing today through video conferencing at DAC Faridkot. The respondent present pleaded that the information was already provided to the appellant vide letter dated 15.11.2021.

As per the appellant, the information is incomplete.

The appellant is directed to point out the discrepancies to the PIO in writing with a copy to the Commission, and the PIO is directed to remove the same.

No further interference of the commission is required. The case is disposed of and closed.

Chandigarh
Dated: 11.04.2022

Sd/-
(Khushwant Singh)
State Information Commission