

PUNJAB STATE INFORMATION COMMISSION

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

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Sh. Jaswant Sarpal 9465477771
s/o Sh. Darbari Lal Sarpal
H.No. 2220/2, Gali Arian,
I/s Mahan Singh Gate, District Amritsar

....Appellant

vs

Public Information Officer
o/o Commissioner,
Municipal Corporation Amritsar

First Appellate Authority
o/o Commissioner,
Municipal Corporation
District Amritsar

....Respondents

Appeal Case No. 2633 of 2019

Present:- Sh. Jaswant Sarpal, appellant along with Shri Ajay Kumar Mehta.
Sh. Karan Kumar, JE-cum-APIO 9988811855 and Sh. Varun Manchanda, Jr.
Asstt 9417134296 on behalf of the respondents.

ORDER

The titled case is being heard by the Full Bench in accordance with the order of the Commission dated 25th June, 2021 and the notice of hearing was issued to the parties for today i.e. 11.8.2021.

2. The APIO states that he has brought 522 pages of information along with him. After going through the same the appellant states that the said pages are not certified and requested for the adjournment of the case. APIO is directed to certify the said pages during the hearing and hand over the same to the appellant.

3. By the time the appellant certified all the pages, the appellant left the office and the APIO placed on record the said pages.

4. Accordingly, the information received from the respondent authority is being transmitted to the appellant along with this order in original duly certified to the appellant with the directions to go through the same and point out deficiency, if any, before the next date of hearing under intimation to the Commission. It is also clarified that no copy of the said information has been retained in the office.

5. To come up on 22.9.2021 at 1.00 PM at Chandigarh.

Sd
(Maninder Singh Patti)
State Inf. Commissioner
Punjab

sd
(Asit Jolly)
State Inf. Commissioner
Punjab

sd
(Suresh Arora)
Chief Information Commissioner,
Punjab.

Dated: 11.8.2021

PS/ SIC (AJ)

PS/ SIC(MSP)

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Sh. Jaswant Sarpal 9465477771
s/o Sh. Darbari Lal Sarpal
H.No. 2220/2, Gali Arian,
I/s Mahan Singh Gate, District Amritsar

....Appellant

vs

Public Information Officer
o/o Commissioner,
Municipal Corporation
District Amritsar

First Appellate Authority
o/o Commissioner,
Municipal Corporation
District Amritsar

Sh. Pardeep Jaiswal, **Registered**
Public Information Officer-cum-
Superintending Engineer,
Amritsar Smart City,
Panorma, Rambagh (Company Bagh)
District Amritsar 98147 45321

....Respondents

Appeal Case No. 2632 of 2019

Present:- Sh. Jaswant Sarpal, appellant along with Shri Ajay Kumar Mehta.
Sh. Karan Kumar, JE-cum-APIO 9988811855 and Sh. Varun Manchanda, Jr.
Asstt 9417134296 on behalf of the respondents.

ORDER

The titled case is being heard by the Full Bench in accordance with the order of the Commission dated 25th June, 2021 and the notice of hearing was issued to the parties for today i.e. 11.8.2021.

2. During the hearing the appellant states that the respondent-Public Information Officer is not supplying the complete information. He also states that the respondent-Public Information Officer has not justified the amount demanded i.e. Rs.920/- for 460 pages. Furthermore the appellant states that he has deposited the said amount under protest and requested that the directions may be given to the respondent authority to refund the same as the information of only two pages have been supplied.

3. After point wise deliberations with both the parties, it has ascertained that the respondent authority was to demand Rs.920/- in another case of the appellant i.e. Appeal Case No. 2633 of 2019 and because of the RTI application(s) of the appellant the matter got intermingled. The respondent authority asked for the fees whereas no fees was required as per clarification submitted by the APIO. The APIO also states that the information comprising two pages has already been sent to the appellant vide letter No. XEN-1/95 dated 25.3.2021 and shall be considered as an information supplied to the appellant for the appeal case No. 2632 instead of the appeal case no. 2633. It has also ascertained that the appellant

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Appeal Case No. 2632 of 2019

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sought the seven point information from the Commissioner, Municipal Corporation, District Amritsar, but as per the submissions of the representative of the respondents, the Municipal Corporation, District Amritsar is having only partial information comprising two pages which has already been supplied to the appellant. Regarding remaining information, the representative of the respondents states that it relates to the Public Information Officer o/o Amritsar Smart City Project.

4. As per Section 6(3) of the RTI Act, 2005 the respondents should have transferred the RTI application for remaining information to the concerned Public Authority. Since there was confusion in dealing with the RTI applications of the appellant, Commission is of the view that the RTI application regarding remaining information be transferred to concerned Public Authority now. However, the Commission further directs to the respondent-Public Information Officer o/o Municipal Corporation, District Amritsar to refund the amount of Rs.960/- which has been wrongly asked for by the respondent in this appeal case.

5. Accordingly, the respondent-Public Information Officer is directed to transfer the RTI application of the appellant regarding remaining points i.e. No.1, 5 to 7, to Sh. Pardeep Jaiswal, Public Information Officer o/o Amritsar Smart city Project, who is impleaded as necessary party in this case with the directions to file the reply/supply the sought information. A copy of the RTI application of the appellant is being **sent** to him along with this order. Also an opportunity is granted to Sh. Sandeep Singh, Superintending Engineer-cum-Public Information Officer to file the reply regarding show cause notice issued to him on 6.1.2021 failing which ex-parte decision will be taken on the next date of hearing.

6. To come up on 22.9.2021 at 1.00 PM at Chandigarh.

Sd

(Maninder Singh Patti)

State Inf. Commissioner
Punjab

sd

(Asit Jolly)

State Inf. Commissioner
Punjab

sd

(Suresh Arora)

Chief Information Commissioner,
Punjab.

Dated: 11.8.2021

PS/ SIC (AJ)

PS/ SIC(MSP)

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Sh. Jaswant Sarpal 9465477771

s/o Sh. Darbari Lal Sarpal

H.No. 2220/2, Gali Arian,

I/s Mahan Singh Gate, District Amritsar

....Appellant

vs

Public Information Officer

o/o Commissioner,

Municipal Corporation

District Amritsar

First Appellate Authority

o/o Commissioner,

Municipal Corporation

District Amritsar

....Respondents

Appeal Case No. 3133 of 2019

Present:- Sh. Jaswant Sarpal, appellant along with Shri Ajay Kumar Mehta.

Sh. Raman Kumar, JE _____ on behalf of the respondents.

ORDER

The titled case is being heard by the Full Bench in accordance with the order of the Commission dated 25th June, 2021 and the notice of hearing was issued to the parties for today i.e. 11.8.2021.

2. After hearing both the parties and going through the RTI application of the appellant, the order in this case is 'RESERVED' and will be pronounced later on.

Sd
(Maninder Singh Patti)
State Inf. Commissioner
Punjab

sd
(Asit Jolly)
State Inf. Commissioner
Punjab

sd
(Suresh Arora)
Chief Information Commissioner,
Punjab.

Dated: 11.8.2021

PS/ SIC (AJ)

PS/ SIC(MSP)

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Sh. Jaswant Sarpal 9465477771
s/o Sh. Darbari Lal Sarpal
H.No. 2220/2, Gali Arian,
I/s Mahan Singh Gate, District Amritsar

....Appellant

vs

Sh. Narinder Sharma, **Registered**
MTP-cum-Public Information Officer,
o/o Commissioner,
Municipal Corporation
District Amritsar

First Appellate Authority
o/o Commissioner,
Municipal Corporation
District Amritsar

....Respondents

Appeal Case No. 3656 of 2019

Present:- Sh. Jaswant Sarpal, appellant along with Shri Ajay Kumar Mehta.
Sh. Rajat Khanna, Draftsman, APIO _____ on behalf of the
respondents.

ORDER

The titled case is being heard by the Full Bench in accordance with the order of the Commission dated 25th June, 2021 and the notice of hearing was issued to the parties for today i.e. 11.8.2021.

2. The appellant has sought the following information:-
 - "1. A copy of letter No. MTP/1315 dt 13.10.2017
 2. Action Taken in the light of above said letter.
 3. A list of illegal buildings/hotels in the walled city – Area Weather residential or Commercial or industrial, authorities in whose area such buildings and hotels falls.
 4. Illegal and unlawfully, construction continued till date, by whose order. "
3. The APIO filed the response regarding the RTI application of the appellant and a copy of the same has been handed over to the appellant during the course of hearing. After going through the same, the appellant insisted that the respondent-Public Information Officer may be directed to file the same on an affidavit. However, the APIO contended that no affidavit is required in this case as the specific reply/information supplied in accordance with the RTI application of the appellant viz a viz provisions of the RTI Act, 2005 and is as per official record.
4. The point wise reply filed by the APIO is as follows:-
 - "1. Regarding Point No. 1 of your application it is informed that desired information is enclosed herewith.
 2. Regarding point No. 2 of your application, the desired information is enclosed herewith at page No. 1 & 2.

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Appeal Case No. 3656 of 2019

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3. Regarding Point No. 3 of your application it is inform you that no such record, register is maintained from where the copy of the same can be retrieved. It is just like a research work and office of the undersigned has to go one by one to each file and to prepare the list which is nothing but creating a new information, which is not possible under RTI Act, 2005. Under RTI Act only that information can be provided which is available in the office record as such and not to prepare a new information. If any effort is made to do so at very definitely result in diverting the limited resources available with this public authority.

4. Regarding Point no. 4 of your application it is to inform to you that no record, register is maintained titled as illegal or unlawful building. Hence no such information exists from it is to be copied and cull-out. It is just like research work, which amounts to creating a new information which is not possible under RTI Act, 2005."

5. It is appropriate to mention the decision given by the Hon'ble Supreme Court of India in the matter of Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors (Civil Appeal No.6454 of 2011) reported as 2011(3) RCT(Civil) as follows:-

"At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."

6. It is also appropriate to mention the instructions issued by the Ministry of Personnel,
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Appeal Case No. 3656 of 2019

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Public Grievances & pensions, department of Personnel & Training vide No. 10/2/2008-IR dated 12th June, 2008 :-

“....3(iii) A person makes an application to a public authority for information, a part of which is available with that public authority and the rest of the information is scattered with more than one other public authorities. In such a case, the PIO of the public authority receiving the application should give information relating to it and advise the applicant to make separate applications to the concerned public authorities for obtaining information from them. If no part of the information sought, is available with it but is scattered with more than one other public authorities, the PIO should inform the applicant that information is not available with the public authority and that the applicant should make separate applications to the concerned public authorities for obtaining information from them. It may be noted that the Act requires the supply of such information only which already exists and is held by the public authority or held under the control of the public authority. It is beyond the scope of the Act for a public authority to create information. Collection of information, parts of which are available with different public authorities, would amount to creation of information which a public authority under the Act is not required to do. At the same time, since the information is not related to anyone particular public authority, it is not the case where application should be transferred under sub-section (3) of Section 6 of the Act. It is pertinent to note that sub-section (3) refers to 'another public authority' and not 'other public authorities'. Use of singular form in the Act in this regard is important to note.”

5. Keeping in view the judicial pronouncements, instructions issued by the Government of India viz a viz specific reply/information supplied to the appellant no directions are being given to the respondent-Public Information Officer/APIO to file the said reply in the shape of an affidavit as the same has already been filed by the APIO under his own signatures with which the Commission is satisfied.

6. A show cause notice was issued to Sh. Narinder Sharma, Public Information Officer o/o the Commission, Municipal Corporation District Amritsar on 6.1.2021 but the order of the Commission was not sent to him by name and also no reply has been received from him so far. In the interest of natural justice, one opportunity is granted to him to file his reply regarding show cause notice issued to him failing which ex-parte decision will be taken on the next date of hearing.

7. To come up on 22.9.2021 at 1.00 PM at Chandigarh.

Sd
(Maninder Singh Patti)
State Inf. Commissioner
Punjab

SD
(Asit Jolly)
State Inf. Commissioner
Punjab

SD
(Suresh Arora)
Chief Information Commissioner,
Punjab.

Dated: 11.8.2021

PS/ SIC (AJ)

PS/ SIC(MSP)

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Sh. Jaswant Sarpal 9465477771
s/o Sh. Darbari Lal Sarpal
H.No. 2220/2, Gali Arian,
I/s Mahan Singh Gate, District Amritsar

....Appellant

vs

Public Information Officer
o/o Commissioner,
Municipal Corporation
District Amritsar

First Appellate Authority
o/o Commissioner,
Municipal Corporation
District Amritsar

....Respondents

Appeal Case No. 3170 of 2019

Present:- Sh. Jaswant Sarpal, appellant along with Shri Ajay Kumar Mehta.
Sh. Dharminderjit Singh, EO _____ on behalf of the respondents.

ORDER

The titled case is being heard by the Full Bench in accordance with the order of the Commission dated 25th June, 2021 and the notice of hearing was issued to the parties for today i.e. 11.8.2021.

2. The appellant states that incomplete information has been supplied by the respondent-Public Information Officer so far. He also states that the respondent-Public Information Officer-cum-Estate officer vide his letter dated 10.7.2019 informed that the record regarding the sought information is not available in the office. In addition, he also states that now the respondent-Public Information Officer is supplying the information. Furthermore, he states that the respondent-Public Information Officer supplied the information vide which it was informed that Monday bazaar 'PARCHI' charges amounting to Rs.200/- were taken up to 31.3.2018 but he has submitted a receipt dated 3.5.2018 of charges taken, which is taken on record. He further states that the respondent-Public Information Officer is deliberately misleading.

3. Also Sh. Dharminderjit Singh, E.O. states that he has recently joined and the former Public Information Officer in this case is Sh. Parshant Bhatia who is presently posted at the Advertisement Wing of the Corporation.

4. After point wise deliberations with both the parties regarding the sought

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Appeal Case No. 3170 of 2019

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information, the respondent-Public Information Officer is directed to file the reply/supply the following before the next date of hearing under intimation to the Commission:-

1. The Name of head under which amount related to Som Bazar Collection was deposited pertaining to Point No. 5 of the RTI application,
2. List of all Public Information Officer/APIOs which were 79 in number i.e. information pertaining to Point No 8 of the RTI application.
3. To clarify whether there is a separate office noting regarding Sunday Bazar, Car Bazar and Monday Bazar to fix the charges amounting to Rs.200/- or the same has been fixed in a same office noting ?
5. Regarding the remaining submissions made by the appellant mentioned herein, the same will appropriately dealt with on the next date of hearing.
6. To come up on 22.9.2021 at 1.00 PM at Chandigarh.

SD
(Maninder Singh Patti)
State Inf. Commissioner
Punjab

Dated: 11.8.2021

SD
(Asit Jolly)
State Inf. Commissioner
Punjab

SD
(Suresh Arora)
Chief Information Commissioner,
Punjab.

PS/ SIC (AJ)
PS/ SIC(MSP)