

**PUNJAB STATE INFORMATION COMMISSION**

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

**Ph: 0172-2864119, Email: - [psic29@punjabmail.gov.in](mailto:psic29@punjabmail.gov.in)**

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Shri Rajiv Kumar Nanda, S/o Shri Tilak Raj Nanda,  
R/o H.No. 683/13, Vishal Colony,  
Near Dashmesh Public School, Patti,  
Distt. Tarn Taran.

.....Appellant.

**Vs**

**(Regd.)** Public Information Officer,  
O/ o Addl. Chief Secretary,  
Home Affairs & Justice, Punjab,  
Punjab Civil Secretariat, Chandigarh.

First Appellate Authority,  
O/o Chief Secretary,  
Govt. of Punjab,  
Punjab Civil Secretariat, Chandigarh.

.....Respondent

**Appeal Case No. 2419 of 2019**

**Present:-** Advocate Joginder Pal Devgan is present on behalf of Shri Rajiv Kumar Nanda, appellant.  
Shri Vikas Sabharwal, SPIO-cum-AIG, O/o Intelligence, Punjab, Mohali is present.  
Shri Rajbir Singh, DSP, Bhikhiwind is present on behalf of Shri Dhruman H. Niwale, IPS, SPIO-cum-SSP, Tarn Taran.

**ORDER**

Shri Rajiv Kumar Nanda, appellant filed RTI application dated 17.12.2018 before the SPIO, O/o Chief Secretary, Govt. of Punjab, Chandigarh and he sought some information related to FIR No.5 dated 09.01.2018, registered under Sections 302/307 IPC at Police Station Valtaha, Distt. Tarn Taran.

The RTI application was transferred U/s 6(3) of the RTI Act, 2005 to the SPIO, O/o Addl. Chief Secretary, Pb. Govt., Home Affairs and Justice Deptt. vide letter no.06 dated 01.01.2019. When no information was provided to him by the SPIO, then he filed First Appeal before the First Appellate Authority on 23.01.2019.

The SPIO, O/o Pb. Govt., Home Affairs and Justice Deptt transferred the RTI application to the SPIO, O/o Director General of Police, Punjab, Chandigarh U/s 6(3) of the RTI Act, 2005 vide letter no.1388567/3 dated 07.01.2019. Then the appellant filed Second Appeal before the Punjab State Information Commission on 04.07.2019.

The case was registered and allocated to the Bench of Ld. Shri Yashvir Mahajan, the Hon'ble State Information Commissioner and during the course of hearings it transpires that the RTI application was transferred by the office of the DGP, Punjab, Chandigarh to the SPIO-

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cum-SSP, Tarn Taran. Upon the retirement of Ld. Shri Yashvir Mahajan, the Hon'ble State Information Commissioner, the case file was transferred to the present Bench.

I have given hearings to both the parties on various dates of hearings. On 08.10.2020 both the parties were present i.e. Advocate Joginder Pal Devgan was present on behalf of Shri Rajiv Kumar Nanda, appellant. Shri Vikas Sabharwal, SPIO-cum-AIG, O/o Intelligence, Punjab, Mohali was present and Shri Rajbir Singh, DSP, Bhikhiwind had come present on behalf of Shri Dhruvan H. Niwale, IPS, SPIO-cum-SSP, Tarn Taran.

I have heard both the parties on the sought for information. The information which was related with the office of the SPIO-cum-SSP, Tarn Taran, the attested copies of information consisting of copy of FIR and copies of 18 applications total 94 pages of information has been provided to the appellant by Shri Rajbir Singh, DSP, Bhikhiwind and SI Satnam Singh on behalf of the SPIO on 20.10.2020.

The Commission has received an e-mail sent by the SPIO-cum-SSP, Tarn Taran, which is a copy of letter no.1950-PRTI dated 27.10.2020 along with copy of letter no.1889 dated 20.10.2020 and copy of statement of Shri Rajiv Kumar Nanda, appellant. I have gone through the said letters and it is submitted by the SPIO that 94 pages of information was provided to the appellant by hand on 20.10.2020. I have also gone through the duly signed statement of Shri Rajiv Kumar Nanda, appellant and he has submitted that he has received 94 pages of information on 20.10.2020.

Adv. Joginder pal Devgan, counsel of the appellant has also sent an e-mail to the Commission and submitted that 94 pages of attested copies of information were provided to the appellant by the SPIO on 20.10.2020.

So far as the case of Shri Vikas Sabharwal, SPIO-cum-AIG, O/o Intelligence, Punjab, Mohali is concerned he has appeared before the Commission being the SPIO regarding the inquiry conducted by Shri S.S. Maan, IPS, AIG, State Special Operation Cell, Amritsar.

The appellant/applicant sought information regarding the inquiry through para no.3 of the RTI application.

During the course of hearing Adv. Joginder Pal Devgan submitted that the appellant filed an application dated 16.08.2018 before Shri Dinkar Gupta, DGP, PB, Additional charge Litigation, PB., Chd for conducting the inquiry in FIR No.5 dated 09.01.2018, registered under Sections 302/307 IPC at Police Station Valtaha, Distt. Tarn Taran, who marked to get the inquiry done with 2 weeks from the AIG, SSOC, Amritsar/AGI, CID for report and Shri S.S. Maan, IPS, AIG, Amritsar conducted the inquiry and sent the report through letter no.5005 dated 16.11.2018 to the DGP, PB.

Adv. Joginder Pal Devgan further requested that as the inquiry was conducted in a murder case in which the brother of the applicant has been falsely implicated, which is a clear violation of human rights and infringement of life and liberty of an innocent person and he requested that the AIG, Intelligence be ordered to provide the attested copies of the inquiry report conducted by Shri S.S. Maan, IPS, AIG, State Special Operation Cell, Amritsar.

Shri Vikas Sabharwal, SPIO-cum-AIG, O/o Intelligence, Punjab, Mohali argued the case that Intelligence Wing of Punjab Police has been exempted U/s 24(4) of the RTI Act, 2005 by the Govt. of Punjab and the RTI Act does not apply to the public authority i.e. Intelligence Wing of Punjab Police.

I have heard both the parties at length and perused the case file. The present appeal case is concerned with a murder case regarding FIR No.5 dated 09.01.2018, registered under Sections 302/307 IPC at Police Station Valtoha, Distt. Tarn Taran and the version of the appellant is that his brother has been falsely implicated and on the application of the appellant before Shri Dinkar Gupta, IPS, DGP, Punjab, the inquiry was marked to Shri S.S. Maan, IPS, AIG, Counter Intelligence, Amritsar to bring the truth. The inquiry was conducted by Shri S.S. Maan, AIG and he sent the inquiry to the Intelligence Head quarters through letter no.5005 dated 16.11.2018 and the report of the inquiry is a part of the file and is lying in the office of the Intelligence Wing, Punjab Police at Mohali. The copy of the report has not been sent to the District Police, Tarn Taran, then what purpose remained for conducting the inquiry by a senior police officer.

Shri Vikas Sabharwal, SPIO-cum-AIG, O/o Intelligence, Punjab, Mohali made much stress upon this point that the Intelligence Wing of Punjab Police has been exempted U/s 24(4) of the RTI Act, 2005 by the Govt. of Punjab by making a notification in the Official Gazette, so the RTI Act does not apply to the Intelligence Wing and the information cannot be provided.

I have gone through Section 24(4) of the RTI Act, 2005. There is no doubt that the Act has given the power to the State Govt. to make notification in the official gazette and exempt the Intelligence and Security Organizations from the purview of the Right to Information Act, 2005. But there is a proviso that in case the information pertaining to allegations of corruption and human rights violations, that shall not be excluded under this Sub-Section. Section 24(4) of the RTI Act, 2005 is as follows :-

*Act not to apply to certain organizations : (1) Nothing contained in this Act shall apply to the intelligence and security organizations specified in the Second Schedule, being organizations established by the Central Government or any information furnished by such organizations to that Government :-*

*Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:-*

*Provided further that in the case of information sought for is in respect of allegations of violations of human rights, the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.*

*(2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organization established by that Government or omitting therefrom any organization already specified therein any on the publication of such notification, such organization shall be deemed to be included in or, as the case may be, omitted from the Schedule.*

*(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.*

*(4) Nothing contained in this Act shall apply to such intelligence and security organization being organizations established by the State Govt., as that Govt., may, from time to time, by notification in the Official Gazette, specify :*

*Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section :*

*Provided further that in the case of information sought for is in the respect of allegations of violations of human rights, the information shall only be provided after the approval of the State Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.*

*(5) Every notification issued under this sub-section (4) shall be laid before the State Legislative.”*

I have given thoughtful consideration and given hearing to both the parties and gone through the case file and the RTI Act, 2005. The matter involved in the present appeal case is regarding the life and liberty and human rights of a person who is allegedly implicated in a murder case and the inquiry was conducted by a senior police officer, Shri S.S. Maan, AIG upon the directions of Shri Dinkar Gupta, DGP, which is not a routine intelligence task rather it is an inquiry conducted regarding a murder case.

I am of the view that the matter is related with the human rights of a person and the Constitution of India gives right of free and fair trial to each and every citizen. In case the report of Inquiry may not be provided then it would be infringement of the human rights and violation of the Fundamental Rights of the citizen. So, I pass the Order and direct Shri Vikas Sabharwal, SPIO-cum-AIG, O/o Intelligence, Punjab, Mohali that the attested copy of inquiry report conducted by Shri S.S. Maan, IPS, AIG, State Special Operation Cell, Amritsar, which was sent through letter no.5005 dated 16.11.2018 be provided to the appellant and be sent to the appellant through registered post at the address of the appellant within 15 days and compliance report be sent to the Commission.

As the case was reserved on 08.10.2020, so the above said Order is pronounced today on 11.11.2020 and the next date for awaiting the compliance of the Order is **15.12.2020 at 11:00 A.M.**

**Order Pronounced.**

**Dated: 11.11.2020**

**( Avtar Singh Kaler )  
State Information Commissioner, Punjab**

**(Regd.) CC: Senior Superintendent of Police, Tarn Taran.**

**- for compliance of the Order of the Commission.**

**(Regd.) CC: Additional Director General of Police, Intelligence Wing, Mohali.**

**- for compliance of the Order of the Commission.**