

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



Kadambini (Advocate)

D/o Mukand Lal,

4125, Abohar Road,

Muktsar – 152026

Versus

Public Information Officer,

o/o Shiv Dham Welfare Society

Jalalabad Road, District Muktsar.

Public Information Officer,

o/o Executive Officer,

Municipal Council, Muktsar.

Complaint Case No. 129 of 2020

PRESENT:

(Complainant)

(Respondent)

ORDER:

(To be read in continuity with earlier orders on 4.6.2020, 6.8.2020, 25.11.2020, 27.1.2021, and 8.9.2021)

1. The complainant, Kadambini, filed this RTI application dated 7.11..2019 and sought information as under:

“Shiv Dham Welfare Society Jalalabad Road Muktsar is on government land i.e. Municipal Committee, hence the following information (directly or indirectly aided by government):

1] Copies of Income Tax Returns for the last five years – 2015 till date along with annexures.

2]. Copies of Bank Statement account for the years 2015 to date.

3] Copies of cash book and ledger alongwith receipt and payment voucher (cash receipts issued) for the year 2015 till date.

4] Copies of Resolutions passed by the executive committee / general house for 2015 till date.

5] Copies of designs of construction work undertaken by the Society in the last five years i.e. 2015 till date alongwith approval by the competent authority i.e. Nagar Council.

6] Copies of audit Report conducted by the CA for the last five years and copies annexed with Income Tax Returns.”

from the **PIO o/o Executive Officer, Nagar Council, Muktsar**. When no information was received, the Complainant filed a complaint under Section 18 of the RTI Act, 2005 to the Commission on 28.1.2020. The case was last heard on 8.9.2021.

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2. This case was first heard on **4.6.2020**, whereon the counsel for the respondents, Sh. Gautam Arora contended that the Shiv Dham Welfare Society was not funded by the government and therefore not a “public authority” as defined by the RTI Act, 2005. The counsel was requested to submit arguments to support of his contention before the next date of Hearing.

3. At the Hearing on 6.8.2020, the respondents requested an adjournment. The next Hearing was slated for 7.10.2020 but could not be held due to administrative reasons. The hearing of this case was rescheduled for 25.11.2020 via video conference. On 25.11.2020, the complainant was absent but she had intimated the Commission of her inability to attend. The respondent once again, sought to make a written submission.

4. The case was listed for Hearing on 27.1.2021, whereon the respondent was absent without intimation. In view of the repeated abstention, the PIO-cum-Executive Officer Municipal Council Shri Muktsar Sahib was impleaded and summon representatives of the respondent Shiv Dham Welfare Society and retrieve the information requested in this RTI application.

5. At the last Hearing of this case on 8.9.2021, the respondents’ counsel, Sh. Gautam Arora made a written submission, following which the Order was Reserved.

6. The written submission by the respondent Shiv Dham Welfare Society, through its President Sh. Krishan Kumar and counsel Sh. Gautam Arora, reads as under:

“... The present appeal is not maintainable against the answering respondent i.e. Shivdham Welfare Society as the answering respondent (is) not covered under the definition of Public Authority and (that) the answering respondent is neither owned, controlled or substantially financed in any way by either directly or indirectly by funds provided by Appropriate Government, so in this way Shivdham Welfare Society (does) not come under the definition of Public Authority. As Shivdham Welfare Society has been started in July 2017 and it’s simply private society, which is made by a group of social workers who work for the welfare of mankind by collecting funds from the general public at large and carry on the day to day activities at (the) cremation ground and by way of collecting funds i.e. donations from different walks of people the society by way of collecting those donations use to do infrastructure development, building development, cremation of dead bodies etc. and various day to day activities carried out at cremation ground.

“The Sivdham Welfare Society is not covered under the purview of public authority therefore no public information officer has ever been appointed over there.

“The Shivdham Welfare Society simply maintain a bank account in which donation are deposited and when the funds are required to carried out the day to day activities at cremation ground then same be withdrawal from that bank account and paid accordingly.

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"Even no income is there, so no Income Tax Return has ever been filed.

"So the present application as well as appeal is not maintainable against the answering respondent as same is not covered under Right to Information Act. So the present appeal is liable to be dismissed. ..."

7. Notably, in her subsequent rebuttals (dated 30.9.2021 and 24.2.2022), the complainant argues that the submission by the respondent, Shiv Dham Welfare Society that said society does not fall within the purview of the RTI Act, 2005, is not maintainable. She contends that the cremation ground being operated by the Shiv Dham Welfare Society is situated on land owned by the Municipal Council Shri Muktsar Sahib, which is therefore government land.

8. The complainant also contends that the respondent Shiv Dham Welfare Society earns a daily income between Rs. 40,000.00 to Rs. 50,000.00 from seven to eight cremations each day, for which said society charges a sum of Rs. 6,000.00 per cremation.

9. Significantly, the complainant's contentions at paragraphs 7 and 8 above, have not been refuted by the respondents. In view of this, **the respondent Shiv Dham Welfare Society and the PIO-cum-EO Municipal Council Shri Muktsar Sahib are here with directed to make separate submissions in writing with regard to the following questions:**

A] Is the land on which Shiv Dham Welfare Society operates a cremation ground, in fact owned by the Municipal Council / State Government? If yes, then what are the terms on which said land was handed over to the Shiv Dham Welfare Society and when?

B] Does the respondent Shiv Dham Welfare Society, as contended by the complainant, charge a fee of Rs. 6,000.00 per cremation carried out at its cremation ground?

C] Has the Municipal Council Shri Muktsar Sahib stipulated any fees / charges for the cremations carried out at the cremation ground being operated by the respondent Shiv Dham Welfare Society?

D] In its submission to this Commission dated 6.8.2021, the respondent Shiv Dham Welfare Society has rather vaguely described itself as a "simply private society, which is made by a group of social workers". The respondents must clarify whether the Shiv Dham Welfare Society is in fact a society registered under the Societies Registration Act? If yes, then details regarding said registration be submitted to the Commission.

10. The above details are to be submitted to this Commission within Ten Days of receipt of this Order.

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11. Next hearing on 13.5.2022 at 11.00 am via Video Conference Facility at DC Office, Sri Muktsar Sahib.

Sd/-
(ASIT JOLLY)
State Information Commissioner, Punjab.

Chandigarh
13.4.2022