



Sh. Sandeep Khattri,
R/o # 130/B6, Gulmohar City, Dera Bassi
Distt. S.A.S.Nagar

Appellant

Versus

Public Information Officer,
O/o Municipal Council,
Zirakpur, Distt. S.A.S. Nagar

First Appellate Authority
O/o Deputy Director,
Local Govt. Mini Sectt.,
Patiala.

Respondents

APPEAL CASE NO.2 of 2018

Date of RTI application : 24.08.2017
Date of First Appeal : Nil
Date of Order of FAA : Nil
Date of 2nd Appeal/complaint : 19.12.2017

Present: Sh. Sandeep Khattri, Appellant in person.
Sh. Gurpreet Singh, Building Inspector, MC Office, Zirakpur – for Respondents.

ORDER

This is a long standing case. It is desirable to reproduce the order passed by this forum on 16.10.2018 as under which shall review the proceedings having taken place:

“The appellant had sought the information concerning the site plan of Hotel Ramada situated on Zirakpur – Chandigarh road along with the concomitant documents relating to its approval given by the Local Bodies Department.

The respondents cite a ‘third party’ information to deny him the same. The appellant expresses his apprehensions about the encroachments of a public land besides diversion in execution of the works from the approved building plan. The Commission is of the view that it is incorrect to invoke the provisions under Section 11 of the Act in the instant case as the property is being used for commercial purposes and its alleged deviation from the approved building bye-laws is



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a matter of public interest as well. Overruling the plea taken by the respondents the Commission directs the respondents to allow him the inspection of the relevant record. For doing so the respondents shall specifically send him a written memo fixing the date and time for the inspection of the record and provide him the certified copies of the documents thus identified by him free of cost but not beyond fifty pages.”

“The respondents have failed to comply with the order as much as in conveying the specific date and time to the appellant for inspection of the record. The Commission takes a serious note of it. A final opportunity is afforded to them to do the needful in letter and spirit without further loss of time. It need not be underlined that the respondents have already defaulted in timely providing the information and have rendered themselves liable for penal consequences.”

“The case has again come up today. Despite the serious observations as made up above, no tangible action has been taken by the respondents. The PIO seems a hard nut to crack and renders himself liable for penal consequences. He is hereby issued a show cause notice to explain in a self- attested affidavit as to why a penalty @ Rs.250/- per day of delay subject to maximum of Rs.25,000/- till the complete information is furnished, be not imposed under Section 20(1) of RTI Act, 2005 on him for causing willful delay/denial of the information to the RTI applicant and why the compensation be not awarded to the appellant under Section 19 (8) (b) of the Act for the detriment suffered by him and why his appointing authority should not be directed to take disciplinary

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action against him.

In addition to the written reply, the PIO is also given an opportunity under Section 20(1) proviso thereto, for a personal hearing before the imposition of such penalty on the next date of hearing. He may take note that in case he does not file his written reply and does not avail himself of the opportunity of personal hearing on the date fixed, it will be presumed that he has nothing to say and the Commission shall proceed to take further proceedings against him ex parte.”

“The case has come up today. Adv. Gulshan Mehta, counsel for the 3rd Parties has put up his presence to represent the third parties with regard to whom the information has been sought. He has filed a written statement in terms of exercise of his right under Section 19(4) of the Act. A copy of the pleadings submitted by him has been handed over on spot to the appellant. The appellant may like to file a replication if he desires so. Meanwhile, the PIO who was issued a show cause notice should also file a written reply so that the things can be taken to logical ends.”

“The respondents have quoted an order of this bench wherein they have taken the plea that the appellant is habitually seeking voluminous information from the public authority. In the instant case they say that the building plan is an intellectual property which has been submitted to the Public Authority in keeping with the requirement of law. However, the same has to be maintained in confidentiality by it and cannot be shared publicly. The counsel for the third party has also cited an order of the Hon’ble Gujarat High Court in which it has been held that the information which has been



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bracketed as confidential should not be allowed to be disclosed which can cause irredeemable damage to the third party. The Commission accepts the argument of the third party. However, it shall hasten to add that a citizen is entitled to know as to whether a structure raised for the use of public meets the statutory requirements.

Having considered the respective submissions the Commission holds that the respondents should provide the approved lay-out plan of the building in question so as to ascertain that it meets the requirement of building bye-laws. The coverage of floor area ratio with the requisite setbacks having been maintained should also be intimated. The respondents shall also provide the inspection report of the concerned technical official along with the approval of the competent authority within fifteen days."

The matter has again come up for hearing today. The respondents say that the available record with reference to his application has been conveyed to him though it was impugned by the third party not to part with it having been given to the respondents in their fiduciary capacity.

Apparently, the delay in providing the information should have warranted the imposition of penalty as has been asked for vigorously by the appellant and this forum itself having overruled the defence of the respondents. The Commission when later was pointed out the mandatory requirement of Section 19 (4) of the Act, the third party was impleaded. Having heard it in detail and taking the other factors in view it is suggested that the information sought is in the nature of the fishing exercise with various queries and posers made. The Counsel for the third party has

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submitted in writing that the information sought is confidential in nature having been submitted to the respondents in fiduciary relationship and attracts exemption under the provisions of the Act. It has further been alleged that the information is being sought with malafide intention and oblique motives as he has filed more than twenty RTI applications with the PIO seeking voluminous information on cyclostyled applications. He has cited various judgments of Hon'ble High Court wherein it has been held that the information in such a situation should not be given as it results in the invasion of their privacy.

The Commission partially agrees with it. In the instant case the lay-out plan as was ordered has been provided to the appellant so that it comes in public domain and adherence to building bye-laws can be monitored by the enlighten citizens. However, the rest of the information seeking the particulars of the officials dealing with the case, the details of inspections made by the Inspectors etc. boils to make a roving expedition which is not desirable. The Commission feels that the appellant has been adequately informed. The respondents are cautioned to be watchful in future in timely disposing of the applications by providing the information or suitably replying in terms of the provisions of law.

Disposed.

15.01.2019

**Sd/-
(Yashvir Mahajan)
State Information Commissioner**

CC: Sh. Gulshan Mehta, Advocate, # 58, Green Enclave, Zirakpur, Distt. Mohali.



Sh. Sandeep Khattri,
R/o # 130/B6, Gulmohar City, Dera Bassi
Distt. S.A.S.Nagar

Appellant

Versus

Public Information Officer,
O/o Municipal Council,
Zirakpur, Distt. S.A.S. Nagar

First Appellate Authority
O/o Deputy Director,
Local Govt. Mini Sectt.,
Patiala.

Respondents

APPEAL CASE NO.4 of 2018

Date of RTI application : 04.09.2017
Date of First Appeal : Nil
Date of Order of FAA : Nil
Date of 2nd Appeal/complaint : 21.12.2017

Present: Sh. Sandeep Khattri, Appellant in person.
Sh. Gurpreet Singh, Building Inspector, MC Office, Zirakpur – for Respondents.

ORDER

This is a long standing case. It is desirable to reproduce the order passed by this forum on 16.10.2018 as under which shall review the proceedings having taken place:

“The appellant had sought the information concerning the site plan of Hotel Maya Garden Magnesia located near Singhapura village on Chandigarh – Ambala road along with the concomitant documents relating to its approval given by the Local Bodies Department.

The respondents cite a ‘third party’ information to deny him the same. The appellant expresses his apprehensions about the encroachments of a public land besides diversion in execution of the works from the approved building plan. The Commission is of the view that it is incorrect to invoke the provisions under Section 11 of the Act in the instant case as the property is being used for commercial purposes and its alleged deviation from the approved building bye-laws is



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a matter of public interest as well. Overruling the plea taken by the respondents the Commission directs the respondents to allow him the inspection of the relevant record. For doing so the respondents shall specifically send him a written memo fixing the date and time for the inspection of the record and provide him the certified copies of the documents thus identified by him free of cost but not beyond fifty pages.”

“The respondents have failed to comply with the order as much as in conveying the specific date and time to the appellant for inspection of the record. The Commission takes a serious note of it. A final opportunity is afforded to them to do the needful in letter and spirit without further loss of time. It need not be underlined that the respondents have already defaulted in timely providing the information and have rendered themselves liable for penal consequences.”

“The case has again come up today. Despite the serious observations as made up above, no tangible action has been taken by the respondents. The PIO seems a hard nut to crack and renders himself liable for penal consequences. He is hereby issued a show cause notice to explain in a self- attested affidavit as to why a penalty @ Rs.250/- per day of delay subject to maximum of Rs.25,000/- till the complete information is furnished, be not imposed under Section 20(1) of RTI Act, 2005 on him for causing willful delay/denial of the information to the RTI applicant and why the compensation be not awarded to the appellant under Section 19 (8) (b) of the Act for the detriment suffered by him and why his appointing authority should not be directed to take disciplinary action against him.

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In addition to the written reply, the PIO is also given an opportunity under Section 20(1) proviso thereto, for a personal hearing before the imposition of such penalty on the next date of hearing. He may take note that in case he does not file his written reply and does not avail himself of the opportunity of personal hearing on the date fixed, it will be presumed that he has nothing to say and the Commission shall proceed to take further proceedings against him ex parte."

"The case has come up today. Adv. Gulshan Mehta, counsel for the 3rd Parties has put up his presence to represent the third parties with regard to whom the information has been sought. He has filed a written statement in terms of exercise of his right under Section 19(4) of the Act. A copy of the pleadings submitted by him has been handed over on spot to the appellant. The appellant may like to file a replication if he desires so. Meanwhile, the PIO who was issued a show cause notice should also file a written reply so that the things can be taken to logical ends."

"The respondents have quoted an order of this bench wherein they have taken the plea that the appellant is habitually seeking voluminous information from the public authority. In the instant case they say that the building plan is an intellectual property which has been submitted to the Public Authority in keeping with the requirement of law. However, the same has to be maintained in confidentiality by it and cannot be shared publicly. The counsel for the third party has also cited an order of the Hon'ble Gujarat High Court in which it has been held that the information which has been bracketed as confidential should not be allowed to be disclosed which can cause irredeemable

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damage to the third party. The Commission accepts the argument of the third party. However, it shall hasten to add that a citizen is entitled to know as to whether a structure raised for the use of public meets the statutory requirements.

Having considered the respective submissions the Commission holds that the respondents should provide the approved lay-out plan of the building in question so as to ascertain that it meets the requirement of building bye-laws. The coverage of floor area ratio with the requisite setbacks having been maintained should also be intimated. The respondents shall also provide the inspection report of the concerned technical official along with the approval of the competent authority within fifteen days.”

The matter has again come up for hearing today. The respondents say that the available record with reference to his application has been conveyed to him though it was impugned by the third party not to part with it having been given to the respondents in their fiduciary capacity.

Apparently, the delay in providing the information should have warranted the imposition of penalty as has been asked for vigorously by the appellant and this forum itself having overruled the defence of the respondents. The Commission when later was pointed out the mandatory requirement of Section 19 (4) of the Act, the third party was impleaded. Having heard it in detail and taking the other factors in view it is suggested that the information sought is in the nature of the fishing exercise with various queries and posers made. The Counsel for the third party has

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submitted in writing that the information sought is confidential in nature having been submitted to the respondents in fiduciary relationship and attracts exemption under the provisions of the Act. It has further been alleged that the information is being sought with malafide intention and oblique motives as he has filed more than twenty RTI applications with the PIO seeking voluminous information on cyclostyled applications. He has cited various judgments of Hon'ble High Court wherein it has been held that the information in such a situation should not be given as it results in the invasion of their privacy.

The Commission partially agrees with it. In the instant case the lay-out plan as was ordered has been provided to the appellant so that it comes in public domain and adherence to building bye-laws can be monitored by the enlighten citizens. However, the rest of the information seeking the particulars of the officials dealing with the case, the details of inspections made by the Inspectors etc. boils to make a roving expedition which is not desirable. The Commission feels that the appellant has been adequately informed. The respondents are cautioned to be watchful in future in timely disposing of the applications by providing the information or suitably replying in terms of the provisions of law.

Disposed.

15.01.2019

**Sd/-
(Yashvir Mahajan)
State Information Commissioner**

CC: Sh. Gulshan Mehta, Advocate, # 58, Green Enclave, Zirakpur, Distt. Mohali.



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Appellant

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O/o Municipal Council,
Zirakpur, Distt. S.A.S. Nagar

First Appellate Authority
O/o Deputy Director,
Local Govt. Mini Sectt.,
Patiala.

Respondents

APPEAL CASE NO.5 of 2018

Date of RTI application : 06.09.2017
Date of First Appeal : Nil
Date of Order of FAA : Nil
Date of 2nd Appeal/complaint : 21.12.2017

Present: Sh. Sandeep Khattri, Appellant in person.
Sh. Gurpreet Singh, Building Inspector, MC Office, Zirakpur – for Respondents.

ORDER

This is a long standing case. It is desirable to reproduce the order passed by this forum on 16.10.2018 as under which shall review the proceedings having taken place:

“The appellant had sought the information concerning the site plan of Hotel Tulip Heights situated on VIP road, Zirakpur along with the concomitant documents relating to its approval given by the Local Bodies Department.

The respondents cite a ‘third party’ information to deny him the same. The appellant expresses his apprehensions about the encroachments of a public land besides diversion in execution of the works from the approved building plan. The Commission is of the view that it is incorrect to invoke the provisions under Section 11 of the Act in the instant case as the property is being used for commercial purposes and its alleged deviation from the approved building bye-laws is



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a matter of public interest as well. Overruling the plea taken by the respondents the Commission directs the respondents to allow him the inspection of the relevant record. For doing so the respondents shall specifically send him a written memo fixing the date and time for the inspection of the record and provide him the certified copies of the documents thus identified by him free of cost but not beyond fifty pages.”

“The respondents have failed to comply with the order as much as in conveying the specific date and time to the appellant for inspection of the record. The Commission takes a serious note of it. A final opportunity is afforded to them to do the needful in letter and spirit without further loss of time. It need not be underlined that the respondents have already defaulted in timely providing the information and have rendered themselves liable for penal consequences.”

“The case has again come up today. Despite the serious observations as made up above, no tangible action has been taken by the respondents. The PIO seems a hard nut to crack and renders himself liable for penal consequences. He is hereby issued a show cause notice to explain in a self- attested affidavit as to why a penalty @ Rs.250/- per day of delay subject to maximum of Rs.25,000/- till the complete information is furnished, be not imposed under Section 20(1) of RTI Act, 2005 on him for causing willful delay/denial of the information to the RTI applicant and why the compensation be not awarded to the appellant under Section 19 (8) (b) of the Act for the detriment suffered by him and why his appointing authority should not be directed to take disciplinary

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action against him.

In addition to the written reply, the PIO is also given an opportunity under Section 20(1) proviso thereto, for a personal hearing before the imposition of such penalty on the next date of hearing. He may take note that in case he does not file his written reply and does not avail himself of the opportunity of personal hearing on the date fixed, it will be presumed that he has nothing to say and the Commission shall proceed to take further proceedings against him ex parte.”

“The case has come up today. Adv. Gulshan Mehta, counsel for the 3rd Parties has put up his presence to represent the third parties with regard to whom the information has been sought. He has filed a written statement in terms of exercise of his right under Section 19(4) of the Act. A copy of the pleadings submitted by him has been handed over on spot to the appellant. The appellant may like to file a replication if he desires so. Meanwhile, the PIO who was issued a show cause notice should also file a written reply so that the things can be taken to logical ends.”

“The respondents have quoted an order of this bench wherein they have taken the plea that the appellant is habitually seeking voluminous information from the public authority. In the instant case they say that the building plan is an intellectual property which has been submitted to the Public Authority in keeping with the requirement of law. However, the same has to be maintained in confidentiality by it and cannot be shared publicly. The counsel for the third party has also cited an order of the Hon’ble Gujarat High Court in which it has been held that the information which has been

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bracketed as confidential should not be allowed to be disclosed which can cause irredeemable damage to the third party. The Commission accepts the argument of the third party. However, it shall hasten to add that a citizen is entitled to know as to whether a structure raised for the use of public meets the statutory requirements.

Having considered the respective submissions the Commission holds that the respondents should provide the approved lay-out plan of the building in question so as to ascertain that it meets the requirement of building bye-laws. The coverage of floor area ratio with the requisite setbacks having been maintained should also be intimated. The respondents shall also provide the inspection report of the concerned technical official along with the approval of the competent authority within fifteen days."

The matter has again come up for hearing today. The respondents say that the available record with reference to his application has been conveyed to him though it was impugned by the third party not to part with it having been given to the respondents in their fiduciary capacity.

Apparently, the delay in providing the information should have warranted the imposition of penalty as has been asked for vigorously by the appellant and this forum itself having overruled the defence of the respondents. The Commission when later was pointed out the mandatory requirement of Section 19 (4) of the Act, the third party was impleaded. Having heard it in detail and taking the other factors in view it is suggested that the information sought is in the nature of the fishing exercise with various queries and posers made. The Counsel for the third party has

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submitted in writing that the information sought is confidential in nature having been submitted to the respondents in fiduciary relationship and attracts exemption under the provisions of the Act. It has further been alleged that the information is being sought with malafide intention and oblique motives as he has filed more than twenty RTI applications with the PIO seeking voluminous information on cyclostyled applications. He has cited various judgments of Hon'ble High Court wherein it has been held that the information in such a situation should not be given as it results in the invasion of their privacy.

The Commission partially agrees with it. In the instant case the lay-out plan as was ordered has been provided to the appellant so that it comes in public domain and adherence to building bye-laws can be monitored by the enlighten citizens. However, the rest of the information seeking the particulars of the officials dealing with the case, the details of inspections made by the Inspectors etc. boils to make a roving expedition which is not desirable. The Commission feels that the appellant has been adequately informed. The respondents are cautioned to be watchful in future in timely disposing of the applications by providing the information or suitably replying in terms of the provisions of law.

Disposed.

15.01.2019

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