



Sh. Sukhwinder Singh, (9501598820)

S/o Sh. Banta Singh, Village Dhupsari,
Po Govt Multispecialist College,
Tehsil Batala, Distt Gurdaspur.

.....Appellant/Complainant

Versus

Public Information Officer

O/o SSP, Batala,
Distt Gurdaspur.

.....Respondent

First Appellate Authority

O/o IGP, Border Range,
Amritsar.

Appeal Case No. 14 of 2021

Present: Appellant: Sh. Sukhwinder Singh (**on telephone call**)

Respondent: ASI Balwinder Singh (9878243120)

ORDER

1. The Appellant/Complainant filed appeal/complaint case in the Commission dated 18.12.2020. Accordingly, the case is fixed for today.

2. Commission is in receipt of a communication dated 11.02.2021 from PIO, SSP, Batala wherein the respondents have cogently and persuasively argued that the information as requested by the appellant, for the reasons stated by the respondents, **comes within the ambit of the exemptions under Section 8(1)(h) and 8(1)(g) of the RTI Act.**

3. **After hearing the parties and on perusal of the relevant documents on file, the Commission found no reason to disagree with the replies of the respondents. The replies of respondents upheld.**

However, information pertaining to the point 4 of the RTI application except the names of the driver (as discussed in the court) could be provided.

Under such circumstances, the PIO is directed to visit the RTI application afresh and share that information which does not come under the **exemption of Section 8(1)(h) and 8(1)(g) of the RTI Act.**

On these points, the PIO is directed to offer inspection of the relevant available records to the appellant at a mutually convenient date and time, within 10 days from the date of receipt of this order. The appellant is directed to avail of the said offer within a period of 20 days from the date of receipt of the letter of inspection from the respondent authority, failing which no further opportunity will be provided to him.

4. To come up on **17.03.2021** through personal hearing at PSIC Chandigarh, **11:30 AM.**

Chandigarh
Dated: 15.02.2021

Sd/-
(Maninder Singh Patti)
State Information Commissioner



Sh. Bhupinder Singh, (9814073663)

S/o Sh. Sulakhan Singh,

R/o Dera Baba Nanak,

Distt Gurdaspur.

.....Appellant/Complainant

Versus

Public Information Officer

O/o SDM, Dera Baba Nanak,

Distt Gurdaspur.

.....Respondent

First Appellate Authority

O/o DC, Gurdaspur.

Appeal Case No. 64 of 2021

Present: Appellant: Sh. Bhupinder Singh

Respondent: Absent

ORDER

1. The Appellant/Complainant filed appeal/complaint case in the Commission dated 18.12.2020. Accordingly, the case is fixed for today.
2. Appellant, Sh. Bhupinder Singh stated that no information has been provided by the respondent authority so far.
3. Respondent is absent without any prior intimation to the Commission.
4. As nobody is present on behalf of respondent authority the case is adjourned to date **17.03.2021** through personal hearing at PSIC Chandigarh, **11:30 AM** with the directions to respondent PIO, to file a reply / supply information before the next date of hearing. Failing to which action under section 20(1) of RTI act will be initiated.

Chandigarh

Dated: 15.02.2021

Sd/-

(Maninder Singh Patti)

State Information Commissioner

PUNJAB STATE INFORMATION COMMISSION
Red Cross Building, Near Rose Garden, Sector 16, Chandigarh.
Ph: 0172-2864112, Email: - psic23@punjabmail.gov.in
Visit us: - www.infocommpunjab.com, Helpline No.0172-
2864100



Sh. Kuldeep Singh, (9876514116)

House No 111, 1st Floor,
Sector 40 A, Chandigarh.

.....Appellant/Complainant

Versus

Public Information Officer

O/o Deputy superintendent Central Jail,
Ludhiana.

.....Respondent

First Appellate Authority

O/o Superintendent Central Jail,
Ludhiana.

Appeal Case No. 120 of 2021

Present: Appellant: Sh. Kuldeep Singh
Respondent: Absent

ORDER

1. The Appellant/Complainant filed appeal/complaint case in the Commission dated 18.12.2020. Accordingly, the case is fixed for today.
2. Appellant, Sh. Kuldeep Singh stated that no information has been provided to him by the respondent authority so far.
3. Respondent is absent without any prior intimation to the Commission.
4. As nobody is present on behalf of respondent authority the case is adjourned to date **17.03.2021** through personal hearing at PSIC Chandigarh, **11:30 AM** with the directions to respondent PIO, to file a reply / supply information before the next date of hearing. Failing to which action under section 20(1) of RTI act will be initiated.

Chandigarh
Dated: 15.02.2021

Sd/-
(Maninder Singh Patti)
State Information Commissioner



Sh. Akash Verma, (9501125474)

80, New Officer Colony,
Stadium Road, Patiala-147001.

.....Appellant/Complainant

Versus

Public Information Officer

.....Respondent

O/o Thapar Institute of Engineering & Technology,
Patiala.

First Appellate Authority

O/o Thapar Institute of Engineering & Technology,
Patiala.

Appeal Case No. 129 of 2021

Present: Appellant: Sh. Akash Verma

Respondent: Adv. Rajat Khanna (counsel for the respondent)

ORDER

1. The Appellant/Complainant filed appeal/complaint case dated 24.12.2020 before this Commission. Accordingly, the case has been taken up today.

2. Relevant facts emerging during hearing:

Both the parties are present. The Appellant had filed RTI application dated 22.10.2020 seeking information pertaining to availability of infrastructure and other ancillary information from the Thapar Institute of Engineering & Technology. The details of information sought vide the aforesaid RTI application reproduced mentioned herein below:

- 1) *Facility, Infrastructure for testing of Automobiles w.r.t. subject matter in a confined Environment/Road trials. (Both static & dynamic tests).*
- 2) *List of team of Class Approved/Certified/Qualified – Experts/Technicians as per point No.1 & Subject matter.*
- 3) *Records pertaining to Date & Certification/Approval regarding grant of status to Thapar University as an “Authorised Automobile Institution” w.r.t. subject matter.*
- 4) *List of specific equipment available for assessment as per subject matter.*
- 5) *List of category of Automobiles which can be inspected as per subject matter.*
- 6) *List of Authorised persons/signatory who are competent to issue “Defect Free Certificate” or Certificate of Standardization as per subject matter.”*

The PIO in his reply dated 10.11.2020 has refused to provide the said information on the ground that Thapar Institute of Engineering & Technology is a private body and doesn't fall under purview of RTI Act 2005. Aggrieved by this, the Appellant filed the first appeal. The First

Appellant Authority in his order upheld the stand taken by PIO. Therefore the present Second Appeal has been filed by the Appellant before this Commission u/s. 19 of the RTI Act 2005.

3. Submissions advanced by the Appellant

In support of his claim, the Appellant has cited the Judgment dated 26.06.2018 passed by the CIC in Appeal No. 3616,3617,3618,3619 of 2016 wherein it has been held that the present Institute passes the test of being substantially financed by the Government as it has received significant assistance by the State Government to set off its deficits and also on the ground that it has been established on the land measuring 250 acres, provided to it by the State Government at the public expense for a public purpose. The Appellant further stated that he has been wrongfully denied information without any sufficient cause.

4. Submissions advanced by the Respondent

The Ld. Counsel representing the Respondent on other hand in his written submission has stated that the information sought by the Appellant cannot be provided to him as the Respondent institute does not come under the ambit of RTI Act 2005. He has further submitted that the Order dated 26.06.2018 which has been relied upon by the Appellant under which the Respondent institute has been held to be a 'public authority' and accordingly held liable to provide the information sought under the RTI Act, has been stayed by the Hon'ble Punjab & Haryana High Court.

5. Findings on submission made by the respective Parties.

After going through the documents on record and submissions made by the respective parties, this Commission finds that it is an undisputed fact that Thapar Institute of Engineering and Technology has been established by the Pepsu Government in 1955 consequent upon entering into an agreement with the Mohini Thapar Charitable Trust with a view to promote technical education in the State. Under the agreement a joint Charitable Trust was created and Rs. 30 Lakh each by Mohini Charitable Trust and the Pepsu Government was subscribed to the Institute. On 19.09.1955, Pepsu Government issued a Notification under Section 4 of the Land of Acquisition Act to the effect that land measuring 250 acres was likely to be required for public purposes. The land was provided by the Pepsu Government, free of cost, for the establishment of the Respondent Institute. Thus it is clear that the present Institute has been established on the land given by the Government, free of cost at the public expense for a public purpose for imparting education which is a very important service to the Society at large.

It has also come forth that the Respondent has been provided significant financial assistance by the State Government to set off its deficits. The details of the grants received by

them during the previous few years have been mentioned in the Judgment dated 26.06.2018 passed by the CIC annexed along with the present Appeal, therefore the same are not being reproduced herein for the sake of brevity.

Thus upon a harmonious & conjoint reading of the aforesaid facts and the Judgment dated 26.06.2018 passed by the CIC, this Commission is of the firm opinion that the Respondent Institute certainly falls within the four walls of the definition of a 'Public authority' which is provided under Section 2(h)(i) of the RTI Act 2005 as it passes the test of being substantially financed by the appropriate Government on two accounts viz., firstly since it has been established on the land given by the Government free of cost and secondly it has also been receiving grants from the Government from time to time.

At this juncture it would not be inappropriate to refer to the following decision of the Hon'ble Supreme Court in the case of **D.A.V. College Trust and Management Society & Ors. v. Director of Public Instructions & Ors.** reported as **(2019) 9 SCC 185** wherein while interpreting the meaning of term 'substantially financed' occurring u/s. 2(h)(i) of the RTI Act, 2005, the Hon'ble Apex Court has held that if an Institution is established on the land given by the State then it would certainly mean that it is substantially financed by the Government.

*26. In our view, "substantial" means a large portion. It does not necessarily have to mean a major portion or more than 50%. No hard-and-fast rule can be laid down in this regard. Substantial financing can be both direct or indirect. To give an example, if a land in a city is given free of cost or on heavy discount to hospitals, educational institutions or such other body, this in itself could also be substantial financing. **The very establishment of such an institution, if it is dependent on the largesse of the State in getting the land at a cheap price, would mean that it is substantially financed.** Merely because of financial contribution of the State comes down during the actual funding, will not by itself mean that the indirect finance given is not to be taken into consideration. The value of the land will have to be evaluated not only on the date of allotment but even on the date when the question arises as to whether the said body or NGO is substantially financed.*

That so far as the sole contention advanced by the of the Ld. Counsel for the Respondent regarding the decision of the CIC dated 26.06.2018 being stayed by the Hon'ble Punjab & Haryana High Court is concerned, this Commission is of the view that the effect of the order of stay in a pending case before the Hon'ble High Court does not amount to wiping out the

said decision and at the same time such interim order does not destroy the binding effect of the Judgment of the CIC as a precedent on this Commission because while granting the interim stay, the Hon'ble High Court did not lay down any proposition of law inconsistent with the one declared by the decision of the CIC which is impugned before the Hon'ble High Court. In the case of ***Shree Chamundi Mopeds Ltd. v. Church of South India Trust Assn.***, reported as **(1992) 3 SCC 1** the Hon'ble Supreme Court while pointing out the difference between an order of stay of operation of the Order and an order quashing the Order itself has held that the pendency of an Appeal or the grant of interim stay does not wipe out a Judgment, leave alone quash it. The relevant excerpt is reproduced as follows:

While considering the effect of an interim order staying the operation of the order under challenge, a distinction has to be made between quashing of an order and stay of operation of an order. Quashing of an order results in the restoration of the position as it stood on the date of the passing of the order which has been quashed. The stay of operation of an order does not, however, lead to such a result. It only means that the order which has been stayed would not be operative from the date of the passing of the stay order and it does not mean that the said order has been wiped out from existence. This means that if an order passed by the Appellate Authority is quashed and the matter is remanded, the result would be that the appeal which had been disposed of by the said order of the Appellate Authority would be restored and it can be said to be pending before the Appellate Authority after the quashing of the order of the Appellate Authority. The same cannot be said with regard to an order staying the operation of the order of the Appellate Authority because in spite of the said order, the order of the Appellate Authority continues to exist in law and so long as it exists, it cannot be said that the appeal which has been disposed of by the said order has not been disposed of and is still pending. We are, therefore, of the opinion that the passing of the interim order dated February 21, 1991 by the Delhi High Court staying the operation of the order of the Appellate Authority dated January 7, 1991 does not have the effect of reviving the appeal which had been dismissed by the Appellate Authority by its order dated January 7, 1991 and it cannot be said that after February 21, 1991, the said appeal stood revived and was pending before the Appellate Authority.

It is pertinent to mention that the aforesaid Judgment has also been relied upon by a Division Bench of the Hon'ble Calcutta High Court in the case of ***PijushKanti Chowdhury v.***

State of West Bengal & Ors. reported as **(2007) 3 CHN 178 : (2007) 54 AIC 952 (Cal) : (2007) 3 ICC 824 (Cal) (DB).**

In view of the what has been stated herein above, this Commission has come down to the conclusion that much water has flown since the Judgment dated 26.06.2018 passed by the CIC, has been stayed by the Hon'ble High Court and now a precedent has been laid down by the Hon'ble Supreme Court in the case of **D.A.V. College Trust and Management Society (Supra)** which has clearly expanded the scope of the words 'substantially financed' occurring u/s. 2(h)(i) of the RTI Act 2005 and accordingly held that land given to the educational institutions free of cost or at discounted rates itself amounts to substantial financing. Therefore in view of the aforesaid recent Judgment of the Apex Court it is clear that since the Respondent Institute has been established on the 250 acres of land given by the Government and has also received significant financial assistance by the Government given to the Respondent Institute to set off its deficits, from time to time, therefore it has been substantially financed by the Government and accordingly falls in the definition of the a 'pubic authority' as provided u/s. 2(h)(i) of the RTI Act 2005 and is thus liable to provide information under the Act.

6. Decision:-

Keeping in view the facts of the case and the submissions made by both the parties, it is evident that no satisfactory reply had been provided by the Respondent in the present matter, which is a grave violation of the provisions of the RTI Act, 2005. The Commission, instructs the PIO to provide a clear and specific information to the Appellant within a period of 15 days in accordance with the provisions of the RTI Act, 2005 from the date of receipt of this order.

To come up on **17.03.2021** through personal hearing at PSIC Chandigarh, **11:30 AM**.

Sd/-

Chandigarh
Dated: 15.02.2021

(Maninder Singh Patti)
State Information Commissioner