

PUNJAB STATE INFORMATION COMMISSION

RED CROSS BUILDING, NEAR ROSE GARDEN,

SECTOR – 16, CHANDIGARH

Tel No. 0172-2864116, Fax No. 0172-2864125

Visit us @ www.infocommpunjab.com; Email: psic26@punjabmail.gov.in;

APPEAL CASE NO. 1922 OF 2018

APPEAL CASE NO. 1923 OF 2018

APPEAL CASE NO. 1924 OF 2018

APPEAL CASE NO. 1925 OF 2018

APPEAL CASE NO. 1926 OF 2018

Alongwith

APPEAL CASE NO. 1927 OF 2018

Advocate Tahaf Bains,
S/o Sh. Dipender Singh Kamra,
1562, Sector -18-D,
Chandigarh.

...Appellant

Versus

Public Information Officer,
O/o Tehsildar,
Jalalabad, District Fazilka.

First Appellate Authority,
O/o Sub-Divisional Magistrate,
Jalalabad, District Fazilka.

...Respondents

PRESENT: Adv Tahaf Bains, Appellant.
Sh. Pardeep Singh, Patwari on behalf of the Respondent – PIO.

ORDER: The appellant filed six appeals with the Commission seeking information from Tehsildar, Jalalabad, District Fazilka. As in all the six appeals, the appellant and the PIO is the same, so all these cases has been clubbed together.

The appellant had moved the RTI applications dated: 01.02.2018 in all these cases for seeking the documents and revenue record relating to agricultural land and residential land owned by Dipender Singh Kamra s/o Manmohan Singh Kamra S/o Kapoor Singh and his family members, permanent resident of Village Jalalabad, District Fazilka. He had sought record including entries and documents of sale, lease, rent, purchase, mortgage, transfer, bank surety, bank guarantee and/or any other transaction relating to the property of aforesaid person.

On receiving no information from the respondent Public Information Officer (hereinafter PIO), the appellant filed first appeals with the First Appellate Authority (hereinafter FAA) on 31.03.2018 and second appeals in the Commission on 01.06.2018 under Section 19 of the Right to Information Act, 2005 (hereinafter RTI Act).

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APPEAL CASES No. 1922-1927 of 2018

Notice of hearing was issued to the parties for 23.07.2018 to appear before the Commission and the cases was postponed and fixed for 29.08.2018.

The appellant states that he has filed the second appeals as the PIO rejected the RTI applications on 01.03.2018 and replied as under:

“ਦਫਤਰ ਤਹਿਸੀਲਦਾਰ ਜਲਾਲਾਬਾਦ (ਪ)

ਵੱਲ

ਤਹਾਫ ਬੈਂਸ ਪੁੱਤਰ ਸ੍ਰੀ ਦਪਿੰਦਰ ਸਿੰਘ ਕਾਮਰਾ,

ਮਕਾਨ ਨੰਬਰ 1562, ਸੈਕਟਰ 18 ਡੀ,

ਚੰਡੀਗੜ੍ਹ।

ਨੰਬਰ 124, ਮਿਤੀ: 1-3-18

ਵਿਸ਼ਾ: ਆਰ.ਟੀ.ਆਈ. ਐਕਟ ਦੇ ਤਹਿਤ ਸੂਚਨਾ ਦੇਣ ਸਬੰਧੀ।

ਉਪਰੋਕਤ ਵਿਸ਼ੇ ਦੇ ਸਬੰਧ ਵਿੱਚ ਆਪ ਨੂੰ ਲਿਖਿਆ ਜਾਂਦਾ ਹੈ ਕਿ ਆਪ ਵੱਲੋਂ ਕੁੱਲ ਇਸ ਦਫਤਰ ਨੂੰ 18 ਦਰਖਾਸਤਾਂ ਰਾਹੀਂ ਆਰ.ਟੀ.ਆਈ. ਦੀ ਸੂਚਨਾ ਦੀ ਮੰਗ ਕੀਤੀ ਗਈ ਸੀ। ਆਪ ਵੱਲੋਂ ਵੱਖ-ਵੱਖ ਅਰਜੀਆਂ ਰਾਹੀਂ ਵੱਖ-ਵੱਖ ਵਿਅਕਤੀਆਂ ਦੀਆਂ ਜਮੀਨਾਂ ਸਬੰਧੀ ਸੂਚਨਾਵਾਂ ਮੰਗੀਆਂ ਗਈਆਂ ਹਨ। ਆਰ.ਟੀ.ਆਈ. ਐਕਟ ਤਹਿਤ ਕੋਈ ਵੀ ਸੂਚਨਾ ਇਕੱਠੀ ਕਰਕੇ ਤਿਆਰ ਨਹੀਂ ਕੀਤੀ ਜਾਂਦੀ। ਇਸ ਦਫਤਰ ਦੇ ਕੋਈ ਵੀ ਡਾਕੂਮੈਂਟ ਜਾਂ ਕਿਸੇ ਵਿਅਕਤੀ ਦੀ ਜਮੀਨ ਦੀ ਸੂਚਨਾ ਚਾਹੀਦੀ ਹੈ ਤਾਂ ਉਹ ਦਫਤਰੀ ਸਮੇਂ 9 ਤੋਂ 5 ਵੱਜੇ ਤੱਕ ਸੇਵਾ ਕੇਂਦਰ ਵਿੱਚ ਅਪਲਾਈ ਕਰਕੇ ਨਿਰਧਾਰਤ ਫੀਸ ਭਰਨ ਉਪਰੰਤ ਫਰਦ ਕੇਂਦਰ ਜਾਂ ਸਬੰਧਤ ਹਲਕਾ ਪਟਵਾਰੀ ਕੋਲੋਂ ਪ੍ਰਾਪਤ ਕਰਨ ਦੀ ਖੋਚਲ ਕੀਤੀ ਜਾਵੇ।

-ਸਹੀ-

ਤਹਿਸੀਲਦਾਰ

ਜਲਾਲਾਬਾਦ”

Later on the First Appeals were rejected by First Appellate Authority vide order dated: 19.04.2018 by passing the following Order: -

“ਸੂਚਨਾ ਦਾ ਅਧਿਕਾਰ ਐਕਟ-2005 ਤਹਿਤ, ਉਪ ਮੰਡਲ ਮੈਜਿਸਟਰੇਟ-ਕਮ-ਪਹਿਲੀ ਅਪੀਲਾਂਟ ਅਥਾਰਿਟੀ, ਜਲਾਲਾਬਾਦ।

ਹਾਜਰ: ਕੋਈ ਹਾਜਰ ਨਹੀਂ।

ਹੁਕਮ:

ਅਪੀਲਾਂਟ ਨੇ ਇਹxx

xx

xx

xx

xx

xx

xx

ਅਪੀਲਾਂਟ ਜਾਂ ਉਸ ਵੱਲੋਂ ਕੋਈ ਵੀ ਹਾਜਰ ਨਹੀਂ ਆਇਆ। ਜਿਸ ਤੋਂ ਜਾਪਦਾ ਹੈ ਕਿ ਅਪੀਲਾਂਟ ਆਪਣੀ ਅਪੀਲ ਦੀ ਪੈਰਵੀ ਨਹੀਂ ਕਰਨੀ ਚਾਹੁੰਦਾ ਹੈ। ਤਹਿਸੀਲਦਾਰ-ਕਮ-ਪੀ.ਆਈ.ਓ., ਜਲਾਲਾਬਾਦ ਵੱਲੋਂ ਪ੍ਰਾਪਤ ਹੋਏ ਜਵਾਬ ਮੁਤਾਬਕ ਕੋਈ ਵੀ ਸੂਚਨਾ ਇਕੱਠੀ ਕਰਕੇ ਜਾਂ ਤਿਆਰ ਕਰਕੇ ਨਹੀਂ ਦਿੱਤੀ ਜਾ ਸਕਦੀ ਅਤੇ ਅਪੀਲਾਂਟ ਵੱਲੋਂ ਮੰਗ ਕੀਤੀ ਗਈ ਸੂਚਨਾ specific ਵੀ ਨਹੀਂ ਹੈ। ਜੋ ਸੂਚਨਾ ਅਪੀਲਾਂਟ ਵੱਲੋਂ ਮੰਗੀ ਗਈ ਹੈ, ਉਹ ਤੀਜੀ ਧਿਰ ਸਬੰਧੀ ਸੂਚਨਾ ਹੈ। ਅਪੀਲਾਂਟ ਨੂੰ ਹਦਾਇਤ ਕੀਤੀ ਜਾਂਦੀ ਹੈ ਕਿ ਉਸ ਨੂੰ ਜੋ ਵੀ ਕੋਈ ਸੂਚਨਾ ਲੋੜੀਂਦੀ ਹੈ ਉਹ specific ਹੋਣੀ ਚਾਹੀਦੀ ਹੈ। ਇਸ ਤੋਂ ਇਲਾਵਾ ਜਿਸ ਸੂਚਨਾ ਦੀ ਮੰਗ ਕੀਤੀ ਜਾਣੀ ਹੈ,

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APPEAL CASES No. 1922-1927 of 2018

ਉਸ ਸਬੰਧੀ ਜੇਕਰ ਸਰਕਾਰ ਵੱਲੋਂ ਫੀਸ ਨਿਰਧਾਰਤ ਕੀਤੀ ਗਈ ਹੈ ਤਾਂ ਉਹ ਫੀਸ ਜਮਾਂ ਕਰਵਾ ਕੇ ਨਿਰਧਾਰਤ ਵਿੱਧੀ ਅਪਣਾਉਂਦੇ ਹੋਏ ਸੂਚਨਾ ਲੈ ਸਕਦਾ ਹੈ। ਇਹਨਾਂ ਹਾਲਤਾਂ ਵਿੱਚ ਅਪੀਲਾਂ ਦੀ ਅਪੀਲ ਖਾਰਜ ਕੀਤੀ ਜਾਂਦੀ ਹੈ। ਪਰੰਤੂ ਤਹਿਸੀਲਦਾਰ-ਕਮ-ਪੀ.ਆਈ.ਓ. ਜਲਾਲਾਬਾਦ ਵੱਲੋਂ ਇਸ ਦਰਖਾਸਤ ਸਬੰਧੀ ਲਾਪ੍ਰਵਾਹੀ ਕੀਤੀ ਗਈ ਹੈ, ਕਿਉਂਕਿ ਪ੍ਰਾਰਥੀ ਵੱਲੋਂ ਮੰਗ ਕੀਤੀ ਗਈ ਸੂਚਨਾ ਤੀਜੀ ਧਿਰ ਨਾਲ ਸਬੰਧਤ ਸੀ, ਪਰੰਤੂ ਤੀਜੀ ਧਿਰ ਨੂੰ ਨੋਟਿਸ ਦੇਣ ਸਬੰਧੀ ਆਰ.ਟੀ.ਆਈ. ਐਕਟ ਦੇ ਸੈਕਸ਼ਨ 11 ਮੁਤਾਬਕ ਨਿਰਧਾਰਤ ਵਿੱਧੀ ਨਹੀਂ ਅਪਣਾਈ ਗਈ ਅਤੇ ਆਰ.ਟੀ.ਆਈ. ਐਕਟ 2005 ਦੇ ਸੈਕਸ਼ਨ 6 ਮੁਤਾਬਕ ਜੇਕਰ ਪ੍ਰਾਰਥੀ ਨੂੰ ਸੂਚਨਾ ਦੇਣ ਤੋਂ ਇਨਕਾਰ ਕੀਤਾ ਜਾਂਦਾ ਹੈ ਤਾਂ ਪ੍ਰਾਰਥੀ ਨੂੰ ਇਨਕਾਰੀ ਸਬੰਧੀ 5 ਦਿਨਾਂ ਦੇ ਅੰਦਰ ਅੰਦਰ ਸੂਚਿਤ ਕਰਨਾ ਹੁੰਦਾ ਹੈ। ਪਰੰਤੂ ਤਹਿਸੀਲਦਾਰ-ਕਮ-ਪੀ.ਆਈ.ਓ., ਜਲਾਲਾਬਾਦ ਵੱਲੋਂ ਪ੍ਰਾਰਥੀ ਦੀ ਦਰਖਾਸਤ ਮਿਤੀ: 01-02-2018 ਦਾ ਜਵਾਬ ਆਪਣੇ ਦਫਤਰ ਦੇ ਪੱਤਰ ਨੰ: 124 ਮਿਤੀ: 01-03-2018 ਰਾਹੀਂ ਲਗਭਗ ਇਕ ਮਹੀਨੇ ਬਾਦ ਦਿਤਾ ਗਿਆ ਹੈ। ਜਿਸ ਕਰਕੇ ਤਹਿਸੀਲਦਾਰ ਜਲਾਲਾਬਾਦ ਨੂੰ ਲਿਖਿਆ ਜਾਂਦਾ ਹੈ ਕਿ ਅੱਗੇ ਤੋਂ ਅਜਿਹੀ ਅਣਗਹਿਲੀ ਨਾ ਕੀਤੀ ਜਾਵੇ।

ਹੁਕਮ ਸੁਨਾਇਆ ਗਿਆ। ਹੁਕਮ ਦੀ ਇਕ ਕਾਪੀ ਅਪੀਲਾਂਟ ਨੂੰ ਉਸ ਦੇ ਐਡਰੈਸ ਤੇ by post ਜਾਣਕਾਰੀ ਹਿੱਤ ਅਤੇ ਤਹਿਸੀਲਦਾਰ-ਕਮ-ਪੀ.ਆਈ.ਓ., ਜਲਾਲਾਬਾਦ ਨੂੰ ਉਕਤ ਹੁਕਮਾਂ ਦੀ ਇਨਬਿਨ ਪਾਲਨਾ ਹਿੱਤ ਭੇਜੀ ਜਾਂਦੀ ਹੈ।

ਮਿਤੀ: 19 ਅਪ੍ਰੈਲ, 2018

-ਸਹੀ-

(ਪਿਰਥੀ ਸਿੰਘ)

ਉਪ ਮੰਡਲ ਮੈਜਿਸਟਰੇਟ-ਕਮ
ਪਹਿਲੀ ਅਪੀਲਾਂਟ ਅਥਾਰਟੀ
ਜਲਾਲਾਬਾਦ 19/4/2018”

Aggrieved by the decision of the FAA, the appellant filed the second appeals under Section 19 (3) of the RTI Act, 2005 before the Commission. The appellant states that he is rightful legal heir and co-parcener in the property of the above mentioned person and he is seeking the record of the property which he is rightfully entitled to as it has come to his knowledge that the property has been mis-appropriated/mis-used. He further states that he has moved application under the RTI Act so as to enable him to receive the relevant record to pursue rightful legal action for implementation of his legal rights.

During the hearing dated: 29.08.2018, the following order was passed:-

“The appellant states that no information has been provided to him by the Respondent – PIO till date.

Sh. Manoj Kumar, Reader appears on behalf of the Respondent - PIO and files his reply mentioning therein that information sought by the appellant in his RTI application is third party information. He further states that appellant has not sought the specific information.

The appellant has further specified the information to the Respondent, during the hearing. The Respondent states that he is ready to provide the information to the appellant, which is available in the office record, before the next date of hearing.

In view of the above, the Respondent – PIO is directed to provide the available information to the appellant, before the next date of hearing, failing which action would be initiated against him as per provisions of the RTI Act, 2005.

Cont...Pg4

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APPEAL CASES No. 1922-1927 of 2018

The case is adjourned for 16.10.2018 at 11:00 AM.

Copies of the order are sent to the parties.”

The appellant appears today and states that he filed an RTI application dated: 01.02.2018 but no information has been provided to him even after the delay of nine months. He further states that in the RTI Act, it has clearly been mentioned that the PIO is bound to provide the information or to give any response on the RTI application within thirty days but no information has been provided to him within the stipulated time as prescribed under the RTI Act, 2005. Therefore, he has requested that he should be compensated for the detriments/harassment suffered by him in getting the information and the PIO should be penalized for the delay.

Sh. Pardeep Singh, Patwari appears on behalf of the Respondent - PIO with the requisite information for the perusal of the Commission. He further says that he is ready to hand over the information to the appellant today on payment of requisite fee i.e. Rs. 1140/- in cash.

The appellant states that he is ready to pay, as he could not get the information after repeated requests to Suvidha Centre.

I have heard the parties and gone through the record. The law is well settled on the scope of the legal obligation of PIOs to furnish information. A PIO is statutorily bound to furnish, on a request from an information seeker, information as defined in Section 2 (f) of the RTI Act, as held by or under the control of the concerned public authority, provided it does not fall under an exemption clause as detailed in Sections 8 and 9 or Section 24 of the Act *ibid*. **The law, however, does not impose any legal obligation to create, rearrange, restructure or even tabulate information / data from record; ‘information’ is to be supplied as it exists with the concerned public authority. The provisions of Section 7 (9) of the Act must be interpreted to mean that information is to be supplied in the form in which it is sought by an information seeker, provided, in the first instance, it exists.**

Cont...Pg5

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APPEAL CASES No. 1922-1927 of 2018

A plain reading of Section 11 of the RTI Act indicates that the same does not prohibit the furnishing of information. In terms of Section 11(1) of the RTI Act, in cases where the public information officers (PIOs) intend to disclose the information, which relates to or has been supplied by a third party and has been treated as confidential by a third party, it would be necessary for the concerned PIO to give a written notice to the third party. The concerned third party has a right to make a submission either in writing or orally and the concerned PIO is required to keep the same in view while taking a decision regarding disclosure of such information. Thus, Section 11 of the RTI Act cannot be read as a provision prohibiting disclosure of information; it is a provision to enable disclosure of third party information subject to certain safeguards. In this view, the decision of the First Appellate Authority denying the information by referring Section 11 of the RTI Act is wholly unsustainable.

After examining the case file, it is ascertained that information does not relate to third party as the information relates to the property to which the appellant has a legal stake as it is in the name of his father, grand-father, grand-mother, paternal uncle etc. Since the appellant is affected party and he is entitled to the information. Hence, the information has been handed over to the appellant by the representative of the Respondent in the Commission, after receiving the document fee and the appellant is satisfied with the provided information and he has expressed his willingness in writing to close the case. Thus, no further action is required, hence this Appeal Cases are **closed and disposed off**.

Copies of the order are sent to the parties.

**Chandigarh
16.10.2018**

Sd/-
**(Prof. Viney Kapoor Mehra)
State Information Commissioner**

PUNJAB STATE INFORMATION COMMISSION

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APPEAL CASE NO. 2164 OF 2018

Ms. Shinderpal Kaur,
Village Buttar Patti, Dhillon Takhanwadh Road,
Near Gurudwara Ravidas Bhagat,
Tehsil & District Moga.

...Appellant

Versus

Public Information Officer,
O/o District Education Officer (EE),
Moga.

First Appellate Authority
O/o District Education Officer (EE),
Moga.

...Respondents

PRESENT: Sh. Jagtar Singh is present on behalf of the Appellant.
Ms. Balbir Kaur, Sr. Assistant is present on behalf of the PIO.

ORDER:

This order may be read with reference to the previous order dated:

05.09.2018.

Sh. Jagtar Singh appears on behalf of the appellant and states that no information has been provided to the appellant by the Respondent – PIO.

Ms. Balbir Kaur, Sr. Assistant appears on behalf of the Respondent – PIO and states that the requisite information has already been supplied to the appellant vide letter no. ਪ੍ਰ/ਆਰ.ਟੀ.ਆਈ/2018/ਸਪੈਸ਼ਲ, ਮਿਤੀ ਮੋਗਾ: 01-05-2018 through registered post. Copy of the same is taken on record.

The perusal of the case reveals that respondent has delayed the information.

In view of the above, a show cause notice under Section 20(1) of the RTI Act is issued to Sh. Jaspal Singh Aulakh, Dy. D.E.O. –cum- PIO O/o District Education Officer (EE), Moga as to why penalty should not be imposed upon him and also why compensation be not awarded to the appellant under Section 19 (8) (b) for willful delay/denial in supplying the information to the RTI applicant.

The Respondent PIO is directed to file an affidavit in response to the Show Cause Notice and appear personally on the next date fixed, otherwise it will be presumed that he has nothing to say and the Commission shall initiate ex-parte proceeding.

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APPEAL CASE No. 2164 of 2018

A copy of this order be sent to Sh. Jaspal Singh Aulakh, Dy. D.E.O.

–cum- PIO O/o District Education Officer (EE), Moga, **by registered post.**

The case is adjourned to **10.12.2018 at 11:00 AM.**

Copies of the order are sent to the parties.

**Chandigarh
16.10.2018**

Sd/-
**(Prof. Viney Kapoor Mehra)
State Information Commissioner**

C.C.

**Sh. Jaspal Singh Aulakh,
Dy. D.E.O. –cum- PIO,
O/o District Education Officer (EE),
Moga.**

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APPEAL CASE NO. 3210 OF 2017

Sh. Raj Ahuja S/o Sh. Bhagwan Chand,
Village Gram Panchayat Neola,
Tehsil & District Fazilka.

...Appellant

Versus

Public Information Officer,
O/o District Social Security Officer,
Fazilka.

First Appellate Authority,
O/o District Social Security Officer,
Fazilka.

...Respondents

PRESENT: Adv Kamal Narula is present on behalf of the Appellant.
Sh. Baljit Singh, is present on behalf of the Respondent – PIO.

ORDER:

This case may be read with reference to the previous order dated
18.09.2018.

Adv Kamal Narula appears on behalf of the appellant and states
that no information has been provided to the appellant by the Respondent – PIO
till date.

Sh. Baljit Singh, appears on behalf of the Respondent – PIO and
states that the information sought by the appellant has already been supplied by
hand to the appellant vide letter no. 451, dated: 12.03.2015. Copy of the same is
taken on record.

In view of the above, the Respondent – PIO O/o Block
Development Project Officer, Fazilka is directed to appear personally and provide
the remaining information to the appellant, if there is no information then file an
Affidavit in this regard alongwith compensation amount of Rs. 2000/-, on the next
date of hearing, failing which action would be initiated against him as per
provisions of the Right to Information Act, 2005.

The case is adjourned to **10.12.2018 at 11:00 AM.**

Copies of the order are sent to the parties.

Chandigarh
16.10.2018

Sd/-
(Prof. Viney Kapoor Mehra)
State Information Commissioner

C.C.: -

The Block Development Project Officer, Fazilka.