

PUNJAB STATE INFORMATION COMMISSION
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Sh. Sushil Kumar,
S/o Sh. Bhoop Ram,
District Jail, Rupnagar.

Appellant

Versus

Public Information Officer,
O/o Superintendent of Police (S.T.F.),
RTI Cell, Phase – 4, SAS Nagar (Mohali).

First Appellate Authority,
O/o Inspector General of Police,
Roop Nagar Range, Roop Nagar.

Respondents

Appeal Case No.3229/2018

Date of RTI Application	Date of Reply, if any of SPIO	Date of First Appeal made, if any	Date of order, if any of FAA
06.06.2018	Nil	16.07.2018	Nil

Present: Sh. Sushil Kumar, Appellant in person.
1. Sh. Sanjeev Kumar Rampal, DIG, STF;
2. Insp. Harbhinder Kumar, SHO, STF, Phase – 4, Mohali, and
3. ASI Harbhajan Singh, STF, Phase – 4, Mohali – for Respondents.

Order

It shall be worthwhile to reproduce the order passed on 15.01.2019, so as to understand the factual matrix of the case.

The appellant is a dismissed employee of Punjab Police. He had sought copies of the DDR and jimneys made in the investigation of a case registered under FIR No.04 dated 04.08.2017.

ASI Ravinder Singh, RTI In charge, SSP Office, Mohali is present. He submits that the issue pertains to the STF Wing of the Government who have desired the District Police to represent the case. The respondents have refused information taking the plea that they are out of the ambit of the provisions of RTI Act by virtue of a notification dated 16.04.2018 issued by the Department of Administrative Reforms in the Government of Punjab.

The appellant submits that he stands incarcerated in jail for the last one and half year approximately. His services have been dispensed with under Article 311 of the Constitution of India. He claims innocence and alleges that he has been framed by the authorities that be.

A citizen is entitled to defend himself which is his basic and fundamental right. In such a scenario according to him the notification of exemption does not hold good. Before a call is taken on the issue the Respondents, PIO – cum – Superintendent of Police, (S.T.F.), RTI Cell, Phase – 4, SAS Nagar (Mohali) are directed to respond to the aforesaid submissions of the appellant before the next date of hearing positively.”

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The respondents reiterate that their organization is exempted to reveal the information under Section 24 of the RTI Act which has been duly notified by the Government vide Notification dated 16th February, 2018. They further claim exemption under Section 8(1)(h) of the RTI Act. It is their submission that though the investigation or apprehension part of the aforesaid provision is no more applicable, yet the prosecution is likely to be affected adversely in case the information sought for is revealed to the appellant.

The appellant while rebutting their submissions says that this issue has been thrashed by this bench only in Appeal Case No.2912/2017 - titled Roop Kishor Soni Versus PIO, O/o Senior Superintendent of Police, SAS Nagar passed on 05.04.2018, a copy of which handed over to the respondents and the Commission in the Court itself. The respondents may like to comment in case they desire so before the next date of hearing.

The case has finally come up today for arguments. The appellant while citing the order of this Bench passed on 12.06.2018, has pleaded that the stance of the respondents is not tenable in view of Section 22 of the Right to Information Act, 2005, notwithstanding the provisions contrary to the effect in other enactments because of its overriding influence. He is seeking the relief as the facts and circumstances are similar in that case.

The Respondents have again highlighted the exemption granted to them under Section 24 (4) of the RTI Act, 2005 vide Government of Punjab notification dated 16.12.2018, which takes the STF, being an intelligence and security agency out of the ambit of RTI Act. They further invoke the Exemption under Section 8(1) (h) of the Act, as the revelation of sought for information shall impede the prosecution of the Appellant. They have quoted an excerpt from the judgment of Hon'ble Supreme Court of India made in Criminal Appeal No. 694 of 2017 arising out of SLP No. 9314 of 2016 titled as Balakram Versus State of Uttarakhand & others. It says:-

".... But if the entire case diary is made available to the accused, it may cause serious prejudice to others and even affect the safety and security of those who may have given statements to the police. The confidentiality is always kept in the matter of criminal investigation and it is not desirable to make available the entire case diary to

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the accused. In the instant case, we have noticed that the entire case diary was given to the accused and the investigating officer was extensively cross-examined on many facts which were not very much relevant for the purpose of the case. The learned Session Judge should have been careful in seeing that the trial of the case was conducted in accordance with the provisions of CRPC.”

The Commission feels that the case in hand is on a different platter than the one cited by the Appellant. For one, it relates with the STF, which is exempted from the domain of RTI. The Appellant has not come up with any argument which suggests that he intends to uncover a case of corruption in the department or his human rights have been infringed upon. On the other hand, the respondents have made a convincing case that the revelation of case diaries at this stage shall impede the prosecution as the challan in the case has already been filed and the issue involved is sensitive one, being of utmost importance to Society at large. In the circumstances, this forum is not inclined to accept the second appeal. The impugned order passed in first appeal is upheld and the second appeal is **dismissed**.

19.03.2019

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