

PUNJAB STATE INFORMATION COMMISSION
Red Cross Building, Near Rose Garden,
Sector 16, Chandigarh.
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Visit us: - www.infocommpunjab.com
Helpline No. 0172-2864100



Sh. Jawahar Sehgal (9814658899)
S/o Sh. Tirlak Chand
R/o 17, Sat Nagar, Sodal Road,
Jalandhar

.....Complainant

..Vs

Public Information Officer,
O/o Deputy Commissioner, Jalandhar

.....Respondent

CC No. 1224 of 2021

Present : (i) None is present on behalf of the complainant
(ii) For the respondent : Smt. Anita Rani, Jr. Assistant (9855941494 (through
CISCO webex)

ORDER

The RTI application is dated 28.09.2020 whereby the information-seeker has sought information as mentioned in his RTI application. He filed complaint in the Commission on 14.10.2021 under Section 18 of the Right to Information Act, 2005 (hereinafter RTI Act).

2. Notice of hearing was issued to the parties for 12.01.2022. On 12.01.2022 the above said appeal case was postponed and fixed for hearing on 22.02.2022. Again, the case was pre-poned and fixed for hearing on 21.02.2022 i.e. today.

3. After going through the file, it is observed that this is the complaint case. The attention of the Complainant is drawn to the decision of the judgment of the Hon'ble Supreme Court of India rendered on 12.12.2011 in Civil Appeal Nos. Nos.10787 – 10788 of 2011 (arising out of SLP © No.32768-32769/2010)- Chief Information Commissioner and another Vs. State of Manipur and another, in Para 31 whereof, it has been held that while entertaining a complaint case under Section 18 of the RTI Act, 2005, the Commissioners have no jurisdiction to pass an order providing for an access to the information which is as under:-



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(31. We uphold the said contention and do not find any error in the impugned judgment of the High Court whereby it has been held that the Commissioner while entertaining a complaint under Section 18 of the said Act has no jurisdiction to pass an order providing for access to the information).

4. As such, since the complainant has approached the Commission under the provision of Section 18 of the RTI Act, 2005, no directions for providing further information can be given by the Commission.

5. Since there is an alternative and efficacious remedy of first appeal available to the Complainant under Section 19(1) of the RTI Act, 2005, which has not been availed in the instant case and the First Appellate Authority has not had the occasion to review the decision of the PIO, as envisaged under the RTI Act by passing a detailed well reasoned speaking order.

6. The instant matter is now remanded back to the First Appellate Authority. The commission hereby directs the FAA to treat the copy of the complaint (copy enclosed) as the first appeal and decide the matter in accordance with the provisions of the RTI Act after giving all concerned parties an opportunity to be heard. He is directed to give an early date to hear the complainant and decide the matter. In case the complainant is not satisfied with the decision of the First Appellate Authority (FAA), he is at liberty to file second appeal with the Punjab State Information Commission in accordance with the provisions of the RTI Act 2005.

7. If, however, the complainant does not feel satisfied with the decision of the First Appellate Authority, he will be at liberty to file a Second Appeal before the Commission under Section 19(3) of the RTI Act, 2005.

8. In view of the observations noted above, the instant case is **disposed of**. Copies of this decision be sent to the parties through registered post.

Sd/-

Dated : 21.02.2022

(Amrit Partap Singh Sekhon)
State Information Commissioner
Punjab

First Appellate Authority,
O/o Deputy Commissioner, Jalandhar

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Sh. Jawahar Sehgal (9814658899)
S/o Sh. Tirlok Chand
R/o 17, Sat Nagar, Sodal Road,
Jalandhar

.....Complainant

..Vs

Public Information Officer,
O/o Tehsildar, Jalandhar-II

.....Respondent

CC No. 1223 of 2021

Present : None for the parties.

ORDER

1. The RTI application is dated 24.02.2020 whereby the information-seeker has sought information as mentioned in his RTI application. He filed complaint in the Commission on 14.10.2021 under Section 18 of the Right to Information Act, 2005 (hereinafter RTI Act). Notice of hearing was issued to the parties for 12.01.2022. On 12.01.2022 the above said appeal case was postponed and fixed for hearing on 22.02.2022. Again, the case was postponed and fixed for hearing on 21.02.2022 i.e. today.

2. After going through the file, it is observed that this is the complaint case. The attention of the Complainant is drawn to the decision of the judgment of the Hon'ble Supreme Court of India rendered on 12.12.2011 in Civil Appeal Nos. Nos.10787 – 10788 of 2011 (arising out of SLP © No.32768-32769/2010)- Chief Information Commissioner and another Vs. State of Manipur and another, in Para 31 whereof, it has been held that while entertaining a complaint case under Section 18 of the RTI Act, 2005, the Commissioners have no jurisdiction to pass an order providing for an access to the information which is as under:-

(31. We uphold the said contention and do not find any error in the impugned judgment of the High Court whereby it has been held that the Commissioner while



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entertaining a complaint under Section 18 of the said Act has no jurisdiction to pass an order providing for access to the information).

4. As such, since the complainant has approached the Commission under the provision of Section 18 of the RTI Act, 2005, no directions for providing further information can be given by the Commission.

5. Since there is an alternative and efficacious remedy of first appeal available to the Complainant under Section 19(1) of the RTI Act, 2005, which has not been availed in the instant case and the First Appellate Authority has not had the occasion to review the decision of the PIO, as envisaged under the RTI Act by passing a detailed well reasoned speaking order.

6. The instant matter is now remanded back to the First Appellate Authority. The commission hereby directs the FAA to treat the copy of the complaint (copy enclosed) as the first appeal and decide the matter in accordance with the provisions of the RTI Act after giving all concerned parties an opportunity to be heard. He is directed to give an early date to hear the complainant and decide the matter. In case the complainant is not satisfied with the decision of the First Appellate Authority (FAA), he is at liberty to file second appeal with the Punjab State Information Commission in accordance with the provisions of the RTI Act 2005.

7. If, however, the complainant does not feel satisfied with the decision of the First Appellate Authority, he will be at liberty to file a Second Appeal before the Commission under Section 19(3) of the RTI Act, 2005.

8. In view of the observations noted above, the instant case is **disposed of**. Copies of this decision be sent to the parties through registered post. **Sd/-**

Dated : 21.02.2022

(Amrit Partap Singh Sekhon)
State Information Commissioner
Punjab

REGISTERED POST

First Appellate Authority
O/o SDM, Jalandhar