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Sh. BhupinderPunj, (9915235055)

S/o Sh. Braham Prakash,
 186, VPO Lohara, Ludhiana.

.....Appellant/Complainant

Versus

Public Information Officer

O/o Senior Superintendent of Police,
 Fatehgarh Sahib.

.....Respondent

First Appellate Authority

O/o Director General of Police, Punjab,
 Chandigarh.

Appeal Case No.1469 & 1471 of 2021
(Cisco Webex Proceedings)

RTI application filed on	:	25-06-2020
PIO replied on	:	-
First appeal filed on	:	16-01-2021
First Appellate Authority order	:	-

ORDER

To be read in the continuity of previous order dated 19.08.2021 vide which the decision was reserved. Decision announced on 21.09.2021.

1. The Appellant has sought certain information under the Right to Information Act of 2005 (hereinafter referred to as the Act) by filing two applications both dated 25.06.2020, in that regard. Being aggrieved by the fact that the concerned Authority has not furnished him the complete information as sought by him under the present Application, the present Second Appeals have been filed before this Commission. Before stating anything further, it would be significant to reproduce the contents of the RTI applications itself, which are as follows:

- Date of joining and belt number of Sub-Inspector Rajwant Singh, presently posted at Police Post, Chunni Kala, District Fatehgarh Sahib. Whether he had given the details of his movable/immovable properties at the time of his appointment in the Police Department.*
- Whether he has sold or purchased any property after his appointment. Whether he had intimated the concerned Department prior to buying*

or selling and or taken any permission from the concerned Department, if yes, then a certified copy of the same be supplied.

- iii. Details of the movable or immovable property in the name of Rajwant Singh, his wife and children be provided. At present how many cars are registered in the name of Rajwant Singh, the details of the same be provided.*
- iv. How many complaint have been registered against the aforesaid Rajwant Singh, what is their status and whether any vigilance inquiry has been done or is pending, the details be provided.*
- v. How many cases have been registered by the aforesaid Sub-Inspector Rajwant Singh since 22.03.2020 i.e., from when the lockdown was imposed. Under what provision the cases have been registered and how many accused persons have been arrested.*
- vi. Whether there is any Government Order or Order of the Hon'ble High Court, by way of which the arrest of accused persons was prohibited, if yes, then a copy of the said order be supplied.*
- vii. Copy of the Police Station Log Book from 01.01.2020 till date be supplied. Copy of the receipts of the fuel put in the Government vehicle be also supplied.*

2. It is interesting to note that another application of the same date i.e., 25.06.2020 was filed under the RTI Act by the present Applicant/Appellant **seeking verbatim similar information about Inspector Navdeep Singh, posted at Police Station Badali Alla Singh, District Fatehgarh Sahib in AC: 1471/2021.** Since the contents of the second application against Insp. Navdeep Singh are identical and word to word same as the application qua Sub-Inspector Rajwant Singh, (the contents of which are reproduced herein above), therefore the same are not being reproduced here for the sake of brevity.
3. Since the information being sought for by the Appellant in the aforesaid Application was not furnished to him, therefore he filed the First Appeal before the Office of Director General of Police, Punjab on 16.01.2021.
4. Thereafter the Office of Senior Superintendent of Police, District Fatehgarh Sahib vide letter no. 8752, dated 22.02.2021 provided part of the information asked under

the serial no. 1 of the RTI Application dated 25.06.2020 i.e., pertaining to the date of joining and Belt no. of the concerned employees. However, the information asked for under serial no. 2,3,4,5,6 and 7 of the RTI Application was not furnished on the ground that such information is not concerned with their Branch.

5. Being aggrieved by the non-receipt of the complete information the Appellant sought to file the present Second Appeals before this Commission, which were taken up for hearing on 16.08.2021.
6. At the time of hearing, upon going through the contents of the Applications filed by the Applicant, the Bench observed that most of the information being asked by the Appellant appeared to be personal information of a third party, therefore this Bench had put a specific query to the Appellant with respect to the fact that what is public interest that he is espousing by filing these RTI Application as otherwise the disclosure of such information would be hit by the provisions of Section 8(1)(j) and Section 11(1) of the Act of 2005.
7. However, rather than answering the specific query put by the Bench to the Appellant who appeared in person, he adopted a totally unacceptable attitude and tried to dodge the query put to him. Upon reiteration of the query by this Bench at the time of hearing, the Appellant in a totally unruly language conceded that since the aforesaid Police Officials, (whose information he is seeking) are not properly investigating the FIR pertaining to his niece's husband's suicide therefore he has been constrained to file the present RTI Applications. While considering the aforesaid statement of the Applicant, when the Bench confronted the Appellant with the fact that he cannot be permitted to misuse the provision of RTI Act to settle his personal scores with Public Authorities he had the audacity to state that he does not wishes argue the matter before this Bench. Such conduct of the Appellant is totally reprehensible and goes against the spirit and objective of the RTI Act.
8. Even a perusal of the contents of second appeal filed by him before this Commission does not reveal as to how the disclosure of this Information would serve the Public Interest. However, taking into consideration the conduct of the Appellant and carefully examining the contents of the RTI Applications both dated 25.06.2020, in light of the statutory provisions of the RTI Act and various precedents, this Bench has come to the conclusion that the present second appeals deserves to be dismissed as the present Appellant is a merely a busy body who has tried to abuse the provisions of RTI Act as tool to settle his personal

scores. The detailed reasoning in support of the aforesaid view of this Bench is being recorded in the contents of the following paragraphs.

9. It is to be noted that the information being sought by the Appellant in both the RTI Applications dated 25.06.2020 and which has not been furnished to him by the concerned PIOs can be summed up under the following heads:

- i. *Details of immovable and movable property owned by Sub-Inspector Rajwant Singh & Inspector Navdeep Singh.*
- ii. *Details of immovable and movable property owned by their wives and children.*
- iii. *Details of complaints pending against the aforesaid Officers.*
- iv. *Details of FIRs registered by the aforesaid Officer and the persons arrested in pursuance to the same.*
- v. *Details of the log book of the Government Vehicle being used by the Police Station where the aforesaid Officers are posted.*

10. Having briefly enumerated the broad contours of information sought by the Applicant, the first issue which this Bench deems appropriate to deal with is whether disclosure of such information is barred by the provisions of the Section 8(1)(j) of the Act of 2005. It would be profitable to reproduce the relevant bare provision of Section 8(1)(j) of the Act of 2005:

8. Exemption from disclosure of information.—(1) *Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—*

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the Appellate Authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

11. A careful reading of Section 8(1)(j) reveals that it creates a fine distinction vis-à-vis Right to Information and Right to Privacy as it provides that information which would cause unwarranted invasion of the privacy of an individual shall not be furnished unless the concerned Authorities functioning under the Act are satisfied that larger public interest justified the disclosure of such information.
12. At this juncture, a question which arises for consideration is whether the details of movable/immovable properties of a public servant and his family and his service records including any complaints and inquiries pending against a public servant can be classified as personal information or not. With regard to the same, this Bench is conscious of the fact that details of assets owned by a public servant or the complaints/inquires pending against such employee can be disclosed under the RTI Act, however the same can be done in such cases where the public interest warrants disclosure of the said information over and above the Right to Privacy of the concerned public servant whose information is being disclosed under the RTI Act, subject to the Appellantsatisfying this Commission that the larger Public Interest warrants disclosure of the said information. At this juncture it would be appropriate to refer to a Judgment of the Hon'ble Supreme Court of India in the case of ***Girish Ramchandra Deshpande v. Central Information Commr.***, reported as **(2013) 1 SCC 212** wherein a similar issue was discussed. The relevant excerpt from the same is being reproduced herein below:

11. The petitioner herein sought for copies of all memos, show-cause notices and censure/punishment awarded to the third respondent from his employer and also details viz. movable and immovable properties and also the details of his investments, lending and borrowing from banks and other financial institutions. Further, he has also sought for the details of gifts stated to have been accepted by the third respondent, his family members and friends and relatives at the marriage of his son. The information mostly sought for finds a place in the income tax returns of the third respondent. The question that has come up for consideration is: whether the abovementioned information sought for qualifies to be "personal information" as defined in clause (j) of Section 8(1) of the RTI Act.

12. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show-cause notices and orders of censure/punishment, etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer in an organisation is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

13. Now coming to the facts of the present case, it is pertinent to note that the Appellant has not been able to show as to what public interest would be served by disclosure of the information sought by him. On the contrary it has come to the notice of this Bench that the Public Servants whose personal information is being sought by the Appellant in the present RTI Applications have been associated with the investigation of FIR No. 21, dated 12.03.2020, registered u/s. 306 r/w. s.34 of the Indian Penal Code of 1860, registered at Police Station Badali Ala Singh, District Fatehgarh Sahib. The said FIR pertains to the case of suicide, committed by one Suresh Kumar whose wife namely Nishu Sharma is the niece of the present Applicant. It is interesting to note that being dissatisfied with the investigation being conducted by aforesaid Public Servants in the said FIR, the Appellant has also filed a Representation No. 488/O.P. dated 27.06.2020 before the Office of Senior Superintendent of Police, Fatehgarh Sahib seeking proper investigation in the matter. Therefore, it is apparent writ large that by filing the present RTI Applications and seeking information which *inter alia* arrays from the details of movable/immovable property of the aforesaid Public Servants and their family

members, details of complaints against them and details of the FIRs registered by them during the course of their duty, the Appellant is merely trying to wreck vendetta against them since he is not satisfied by the investigation carried out by them in the aforesaid FIR.

14. Although the person who is seeking information under the RTI Act is not required to state the reasons for the same, however in cases like the present one, when it is crystal clear that the process of law is being abused at the behest of busy-body like the present Appellant, the Commission cannot be a mute spectator to the same. The said reasoning also finds support from the Judgment of the Hon'ble High Court of Delhi in its decision dated 08/10/2015 [**WP(c) No. 7911/2015 *Rajni Maindirattav. PIO, Director of Education (North West-B)***] has held as under:

“8....Though undoubtedly, the reason for seeking the information is not required to be disclosed but when it is found that the process of the law is being abused, the same become relevant. Neither the authorities created under the RTI Act nor the Courts are helpless if witness the provisions of law being abused and owe a duty to immediately put a stop thereto.

15. A reference deserves to be made to the Judgment passed by the Hon'ble Delhi High Court in the case of ***Municipal Corporation Delhi vs. Rajbir W.P.(C) 13219/2009*** dated 24.08.2017 wherein details of immovable properties owned by an employee of the Municipal Corporation Delhi were sought by way of filing an RTI Application in that regard. The Hon'ble Delhi High Court in the said case held that the such information could only be disclosed if larger public interest justified the same. The relevant excerpt from the said Judgment is being reproduced herein below:

9. In *Secretary General, Supreme Court of India v. Subhash Chandra Agarwal*: AIR 2010 Del 159, a full Bench of this Court observed that the objective of freedom of information and objective of protecting personal privacy would often conflict when an applicant seeks access to personal information of a third party. The Court held that the Act had recognized the aforesaid conflict and had exempted personal information from disclosure under Section 8(1)(j) of the Act. However, such bar

preventing disclosure of personal information could be lifted if sufficient public interest was shown. The relevant extract of the said decision is reproduced below:—

“114. There is an inherent tension between the objective of freedom of information and the objective of protecting personal privacy. These objectives will often conflict when an applicant seeks access for personal information about a third party. The conflict poses two related challenges for law makers; first, to determine where the balance should be struck between these aims; and, secondly, to determine the mechanisms for dealing with requests for such information. The conflict between the right to personal privacy and the public interest in the disclosure of personal information was recognized by the legislature by exempting purely personal information under Section 8(1)(j) of the Act. Section 8(1)(j) says that disclosure may be refused if the request pertains to “personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual.” Thus, personal information including tax returns, medical records etc. cannot be disclosed in view of Section 8(1)(j) of the Act. If, however, the applicant can show sufficient public interest in disclosure, the bar (preventing disclosure) is lifted and after duly notifying the third party (i.e. the individual concerned with the information or whose records are sought) and after considering his views, the authority can disclose it. The nature of restriction on the right of privacy, however, as pointed out by the learned single Judge, is of a different order; in the case of private individuals, the degree of protection afforded to be greater; in the case of public servants, the degree of protection can be lower, depending on what is at stake. This is so because a public servant is expected to act for the public good in the discharge of his duties and is accountable for them.

115. The Act makes no distinction between an ordinary individual and a public servant or public official. As pointed out by the learned single Judge “— an individual's or citizen's fundamental rights, which include right to privacy—are not subsumed or extinguished if he accepts or holds public office.” Section 8(1)(j) ensures that all information furnished to public authorities—including personal information [such as asset disclosures] are not given blanket access. When a member of the public requests personal information about a public servant, - such as asset declarations made by him—a distinction must be made between personal data inherent to the person and those that are not, and, therefore, affect his/her private life. To quote the words of the learned single Judge “if public servants are obliged to furnish asset declarations, the mere fact that they have to furnish such declaration would not mean that it is part of public activity, or “interest”. That the public servant has to make disclosures is a part of the system's endeavour to appraise itself of potential asset acquisitions which may have to be explained properly. However, such acquisitions can be made legitimately; no law bars public servants from acquiring properties or investing their income. The obligation to disclose these investments and assets is to check the propensity to abuse a public office, for a private gain.” Such personal information regarding asset disclosures need not be made public, unless public interest considerations dictates it, under Section 8(1)(j). This safeguard is made in public interest in favour of all public officials and public servants.”

10. There can be no doubt that the information sought by respondent is personal information concerning an employee of MCD. Such information could be disclosed only if respondent could establish that disclosure of such information was justified by larger public interest. Even if the PIO was satisfied that disclosure of such information was justified, the PIO was

required to follow the procedure given under Section 11 of the Act; that is, the PIO was required to give a notice to the concerned employee stating that he intends to disclose the information and invite the employee to make submissions on the question whether such information ought to be disclosed.

11. In view of the above, the impugned order directing the disclosure of personal information relating to the employee of MCD cannot be sustained. The impugned order is, accordingly, set aside.

16. It is the bounden duty of this Commission to ensure that the provisions of the RTI Act are not used as a tool in the hands of a busy-body like the present Appellant, to settle their personal scores with the Public Authorities. This would defeat the very objective with which the RTI Act was brought into force. This Commission is of the considered opinion that there is a necessity to take penal action against those who misuse the provisions of the RTI Act merely for advancing their personal interests. In fact, the Hon'ble Delhi High Court in **ShailSahni v. Sanjeev Kumar [W.P. (C) 845/2014]** has observed that:

“10. Consequently, this Court deems it appropriate to refuse to exercise its writ jurisdiction. Accordingly, present petition is dismissed. This Court is also of the view that misuse of the RTI Act has to be appropriately dealt with, otherwise the public would lose faith and confidence in this “sunshine Act”. A beneficent Statute, when made a tool for mischief and abuse must be checked in accordance with law.

17. The vulnerability of this benevolent statute to such misuse cannot be allowed to perpetuate once Commission has taken cognizance of the intent of the RTI Applicant. The menace caused by vexatious/frivolous litigants is well recognized and if similar obstruction is faced by quasi-judicial bodies particularly with respect to statutes like the RTI Act, which is premised on bringing transparency and accountability in government functioning for the larger good of the public, it is only axiomatic that such misuse ought to be curbed.
18. Thus in view of the discussion contained in the forgoing paragraphs of this Judgment the Commission is of the view that the present Applicant deserves to be debarred from seeking any information under the RTI Act or file any First Appeal or

Second Appeal under the same. By doing so the Commission seeks to strike a fine balance between the interests of genuine information seekers, while keeping the menace of frivolous RTI Applicants under check.

19. Accordingly the present Second Appeals being devoid of merits, are hereby dismissed.

Chandigarh
Dated: 21.09.2021

Sd/-
(Maninder Singh Patti)
State Information Commissioner, Pb.