

**PUNJAB STATE INFORMATION COMMISSION
RED CROSS BUILDING, NEAR ROSE GARDEN,
SECTOR 16, CHANDIGARH.**

Ph: 0172-2864116, Email: - psic26@punjabmail.gov.in

**Visit us: - www.infocompunjab.com, Cisco Webex Code:15857-23975
Helpline No.: 0172-2864100 (From 10.00 AM to 04.00 PM on working days)**



Shri Diyal Singh S/o Sh.Balwant Singh,
R/o Village Chak Bajida,
Tehsil Jalalabad, Distt. Fazilka.

.....Complainant

Versus

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

Remanded Back
First Appellate Authority
Sub Divisional Magistrate,
Jalalabad, District Fazilka.

...Respondents

CC No.523/2021

Present: (i) **Shri Diyal Singh, Complainant, in person.**
(ii) **None on behalf of the PIO/Respondent.**

ORDER

1. This order may be read with reference to the order passed by this Bench on the previous hearing.
2. The case has been heard today in Commission's office at Chandigarh. The complainant Shri Diyal Singh comes present to attend the hearing in person before the Bench.
3. The PIO O/o Tehsildar, Fazilka has also not come present to attend the hearing nor he has deputed any of his representatives to attend the hearing in person before the Bench. However, it is observed that a letter dated 08.11.2021 has been received from the Tehsildar, Jalalabad stating that relevant documents of the complainant have not been received along with the notice and has requested to send a copy of the same.
4. The Bench observes that the complainant has not availed the provision of the Section 19(1) of the RTI Act by filing an appeal with the First Appellate Authority (FAA). As such, the FAA has not been able to address the grievances of the complainant. The attention of the Complainant is drawn to the decision of the judgment of Hon'ble Supreme Court of India rendered on 12.12.2011 in Civil Appeal Nos.10787-10788 of 2011 (arising out of SLP (C) No.32768-32769/2010- Chief Information Commissioner and another Versus 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 Hon’ble 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.”

As such, since the complainant has approached the Commission under the provisions of Section 18 of the RTI, 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 complaint case and the First Appellate Authority has not had the occasion to review the decision of PIO, as envisaged under the RTI Act by passing a detailed well reasoned speaking order. In case the complainant has any grouse about the provided information, he is advised to challenge the response of the PIO before the designated First Appellate Authority, as envisaged under Section 19(1) of the RTI Act, 2005, who will decide time limit in accordance with the provisions of RTI Act within the prescribed time limit, after giving an opportunity of hearing to all concerned. The Bench observes that the complainant must be given an opportunity to avail of the above said remedy.

6. The instant matter is remanded back to the First Appellate Authority i.e. **Shri Devdarshdeep Singh, Sub Divisional Magistrate, Jalalabad, District Fazilka**. The Commission hereby directs the FAA to treat the copy of the Complaint (enclosed herewith) 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.

7. In case, the complainant is not satisfied with the decision of the First Appellate Authority (FAA), he is at liberty to file second appeal before Punjab State Information Commission Section 19(3) of the RTI Act, 2005.

8. In view of the above, **the case is disposed off and closed**. Copy of the order be sent to the parties.

**Chandigarh
24.11.2021**

**Sd/-
(Lt Gen Ajae Kumar Sharma (Retd))
State Information Commissioner, Punjab**

Copy to (By Regd. Post):

First Appellate Authority, Shri Devdarshdeep Singh, S.D.M. Jalalabad, Distt. Fazilka.

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Shri Chanderdeep Maggu, Advocate,
District Court Complex
Chamber No.172, Block-C,
New Judicial Court Complex,
Fazilka..

...Appellant

Versus

Public Information Officer,
O/o Addl. Deputy Commissioner (Dev.),
Fazilka.

First Appellate Authority-cum-
O/o Deputy Commissioner,
Fazilka.

...Respondents

Appeal Case No.2054 of 2021

PRESENT : (i) **Appellant- absent.**
(ii) **Shri Vikrant Setia, Clerk O/o A.D.C. (Development), Fazilka**
On behalf of the PIO, in person.

ORDER:

1. This order may be read with reference to the order dated 07.09.2021 passed by this Bench on the previous hearing.
2. The case has been heard today in Commission's office at Chandigarh. Shri Chanderdeep Maggu, appellant has not come present to attend the hearing in person.
3. Shri Vikrant Setia, Clerk O/o A.D.C. (Development), Fazilka comes present to attend the hearing in person before the Bench and states that the information has been supplied to the appellant vide letter dated 03.09.2021 by registered post and copy was also handed over to the appellant during previous hearing. He further states that the appellant was also called vide letter dated 17.11.2021 for inspection of records before 22.11.2021 as the information sought relates to a very old record.
4. The appellant is contacted on mobile phone. On the asking of the Bench, he states that he visited the office of the PIO on 23.11.2021 and that he has been supplied information except the tender and the agreement. On the asking of the Bench, the representative of PIO states that no tender was called for and as such, no record relating to tender and agreement is available in the official records.

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AC No.2054/2021

5. The Bench, post deliberations with the appellant and the representative of the PIO, directs the PIO to file an affidavit on non-judicial stamp paper, within 21 days, duly signed by the PIO and attested by the Notary Public to the effect that the information as available in the official records has been supplied to the appellant. It be further stated that nothing has been concealed therein and the statement made is true and correct. The original affidavit be sent to the appellant and photocopy of the same be sent to the Commission for record. The representative of PIO assures to do the needful.

6. With the aforesaid directions and as per assurance of the representative of PIO, **the instant appeal case is disposed off and closed.** Copies of the order be sent to the concerned parties.

**Chandigarh
24.11.2021**

**Sd/-
(Lt Gen Ajae Kumar Sharma,(Retd))
State Information Commissioner, Punjab**

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Shri Dalbir Singh
S/o Shri Gurdeep Singh
R/o Village Pakhopur,
Tehsil & Distt. TarnTaran.

...Appellant

Versus

Public Information Officer,
O/o Chief Administrator,
Amritsar Development Authority,
Amritsar.

First Appellate Authority-cum-
O/o Chief Administrator,
Amritsar Development Authority,
Amritsar.

...Respondents

Appeal Case No.2076 of 2021

PRESENT : (i) Shri Dalbir Singh, Appellant, in person.
(ii) None on behalf of the PIO/Respondent

ORDER:

(Heard in person/On Mobile Phone)

1. This order may be read with reference to the order dated 09.09.2021 passed by this Bench on the previous hearing.
2. The case has been heard today in Commission's office at Chandigarh. Shri Dalbir Singh, appellant comes present to attend the hearing in person before the Bench and states that he has been supplied incomplete information.
3. The PIO O/o Chief Administrator, Amritsar Development Authority, Amritsar/PIO has not come present to attend the hearing in person or through Cisco Webex nor he has deputed any of his representatives to attend the hearing on behalf of PIO.
4. Shri Gurpreet Singh, XEN, Amritsar Development Authority, Amritsar is contacted on mobile phone. He is apprised of the version of the appellant. Then, he requests the Bench to direct the appellant to contact him on 25.11.2021 and assures to redress the grievance of the appellant. Accordingly, the Bench advises the appellant to contact Shri Gurpreet Singh, XEN, Amritsar Development Authority, Amritsar on 25.11.2021.

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AC No.2076/2021

5. In view of the assurance of Shri Gurpreet Singh, XEN/PIO given to the Bench to ensure that all issues raised in the RTI application of the appellant will be addressed during appellant's visit on 25.11.2021, the Bench does not find the need for further intervention in the matter, **the instant appeal case is disposed off and closed.** Copies of the order be sent to the concerned parties.

**Chandigarh
24.11.2021**

Sd/-
**(Lt Gen Ajae Kumar Sharma,(Retd))
State Information Commissioner, Punjab**

