

Bimal P. Jain,  
H. No. 4949, Jain Street,  
P. O. – Bazar, Bathinda (Punjab)

...Appellant

V/s

Public Information Officer,  
O/o The President,  
S. S. Jain Sabha,  
Wholesale Cloth Market,  
Bathinda(Punjab)

...Respondents

## **Complaint Case No. 152 of 2020**

### **ORDER**

Heard through facility of Software/application 'CISCO Webex Meetings'.

The RTI request is dated 30.04.2019. The complaint has been received in the Commission on 30.01.2020.

On the last date of hearing, held on 05.01.2022 ;

- 1) Sh. Umesh Jain, General Secretary of S. S. Jain Sabha, Bathinda, stated that S. S. Jain Sabha , Bathinda (Respondent Institute) is not a 'public authority'.
- 2) He also intimated the Commission that the following necessary documents were required by the Legal Advisor so that the case/issue could be decided ;
  - i) *Copy of resolution/decision of Gram Panchayat to hand over management of Gaushala to the respondent ;*
  - ii) *Capacity (Owner/lessee/Licensee) in which the respondent is utilizing the land for Gaushala and the relevant supporting documents in this regard.*
  - iii) *Copy of latest Jamabandi of the land being utilised for Gaushala ;*
  - iv) *Market Value of the land utilized for Gaushala as in the year 2002 and at present .*
- 3) He further intimated the Commission that a letter dated 24.09.2021 was sent to District Development and Panchayat Officer, Bathinda and also to Sub-Registrar-cum-Tehsildar, Bathinda to provide the above-said documents as the same is available with their offices and the required documents are still awaited to be received from these offices and a reply was also sent to the Commission vide letter dated 01.01.2022 for intimation. It is placed in the case-file

After examining the documents placed in the case-file, it is found that Sh. Bimal P. Jain (the complainant) filed a complaint-case in the Commission and the documents, which are essential to decide the judgment in the instant complaint-case have also not been received from the respondent.

After examining the documents placed on record, it is also found that the respondent PIO through a reply vide letter dated 11.04.2022 signed by Sh. Mahesh Jain, President, S. S. Jain Sabha, Bathinda, which has been received in the Commission vide Diary No. 7728 dated 13.04.2022, has made a submission as under ;

*“ The complainant, Sh. Bimal P. Jain has time and again claimed during earlier proceedings of this case that S. S. Jain Sabha has supplied information relates with S. S. Jain Bhoj Raj Jain Sr. Sec. School, Bathinda to someone earlier on the RTI application moved by that person under RTI Act as this school is run by the S. S. Jain Sabha, Bathinda . The complainant has also claimed that if S. S. Jain Bhoj Raj Jain Sr. Sec. School, Bathinda could supply the information against RTI request of someone else then as to why information could not be supplied to him against his RTI request by the S. S. Jain Sabha, (Regd.) Bathinda*

*And urged the Hon’ble bench to keep the above mentioned fact in mind while deciding the complaint.*

*And bring into notice that S. S. Jain Sabha, Bathinda is not a ‘public authority’, hence, does not come under the provisions of the RTI Act.*

*And supply of information by S. S. Jain Bhoj Raj Jain Sr. Sec. School, Bathinda does not bound the S. S. Jain Sabha, Bathinda to follow the same footsteps as it would surrender the legal rights of the S. S. Jain Sabha, Bathinda, which have been given to certain Institutions/Organisations/Societies and Instrumentalities by the Parliament though RTI Act itself.*

*In various replies made before the Hon’ble bench in the instant case, General Secretary of the Sabha have brought all the facts to light so that your good self could peruse the same and decide the matter accordingly.*

*It is apparent from different interim orders passed by the Hon’ble Bench that certain documents which were summoned from S. S. Jain Sabha, Bathinda in the instant case have been lying in the custody of District Development and Panchayat Officer, Bathinda and Sub-Registrar-cum-Tehsildar, Bathinda.”*

According to para 30 and 31 of the judgment passed by the Hon’ble Supreme Court of India in Civil Appeal no. 10787 to 10788 of 2011 in a case ; Chief Information Commissioner & another V/s State of Manipur and another before Ld. Judges - Sh. Asok Kumar Ganguly and Gyan Sudha Misra, the Commission could not allow to information seeker(complainant) to have access of the information under Section 18 of the RTI Act, 2005.

Moreover, certain documents, which are essential to decide the issue are lying in the custody of District Development and Panchayat Officer, Bathinda and Sub-Registrar-cum-Tehsildar (as per version of respondent PIO) and unless and until the respondent provides the above-said documents, judgment in this case would be pending as the Commissioner, while entertaining a complaint under Section 18 of the Act, has no jurisdiction to pass an order providing for access to the information.

Accordingly, the Commission could not allow access to the information to the information seeker in a complaint-case, hence, the case is announced as **disposed of and closed.**

Copies of the orders be sent to the parties.

Date :27<sup>th</sup> April, 2022

(Sanjiv Garg)  
State Information Commissioner  
Punjab

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