

PUNJAB STATE INFORMATION COMMISSION

Red Cross Building, Near Rose Garden,

Madhya Marg, Sector 16, Chandigarh.

Ph: 0172-2864111, Visit us @ www.infocommpunjab.com,

Email: psic21@punjabmail.gov.in



FINAL ORDER

Harnek Singh,

S/o Sh. Jaginder Singh,

Village Gureh, Tehsil Jagraon,

Ludhiana.

Versus

Public Information officer,

o/o Station House Officer,

Police Station, Civil Lines,

Patiala.

First Appellate Authority,

o/o Senior Superintendent of Police,

Patiala.

Appeal Case No. 1528 of 2021

PRESENT:

(Appellant)

(Respondent)

ORDER:

(To be read in continuity with earlier orders on 10.9.2021)

1. The RTI application is dated **2.12.2020** vide which the appellant has sought **information regarding ASI Rajpal, Constable Gagandeep Singh, HC Gurpiar Singh, HC Satish Kumar, Constable Parminder Singh**, as enumerated in his RTI application. First Appeal was filed with the First Appellate Authority (FAA) on **7.1.2021** and Second Appeal was filed in the Commission on **24.3.2021** under Section 19 of the Right to Information Act, 2005. The case was last heard on **10.9.2021**.

2. This order was reserved on 10.9.2021. The Commission has examined all the communication/correspondence between the appellant, PIO and the First Appellate Authority.

3. The Commission is of the view that the respondent PIO's decision to withhold/deny the information as per Section 8(1)(h) of the RTI Act 2005 was lawful. The said decision has also been upheld by the First Appellate Authority vide Order No. 4549 Dated 22.2.2021. The PIO's decision is herewith upheld.

4. There is no further cause for action and this Appeal Case is herewith **CLOSED**.

Sd/-

(ASIT JOLLY)

State Information Commissioner, Punjab.

Chandigarh

27.4.2021

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FINAL ORDER

Mohit Garu,

S/o Dalip Kumar,

B-2/698/6-E, Chhawani Mohalla,

Ludhiana – 141 008

Versus

Public Information Officer,

o/o Commissioner,

Municipal Corporation,

Ludhiana.

First Appellate Authority,

o/o Commissioner,

Municipal Corporation,

Ludhiana.

Appeal Case No. 3602 of 2020

PRESENT:

(Appellant)

(Respondent)

ORDER:

(To be read in continuity with earlier orders on 5.3.2021, 2.7.2021, and 3.12.2021)

1. The RTI application is dated **29.7.2020** vide which the appellant has sought information **regarding the staff in the O&M Branch of Zone-D**, as enumerated in his RTI application. First Appeal was filed with the First Appellate Authority (FAA) on **9.9.2020**, and Second Appeal was filed in the Commission on **19.11.2020** under Section 19 of the Right to Information Act, 2005. The case was last heard on **3.12.2021**.

2. This case was reserved on 3.12.2021. As per this Commission's Order of 2.7.2021, as under:-

“This Commission impleads the Commissioner, Municipal Corporation, Ludhiana and directs him to upload a complete directory of all officers and irregular employees of the Municipal Corporation along with details of their remuneration, system of compensation etc. (excluding any details that qualify as personal information), on the official website of the Municipal Corporation, Ludhiana. This is to enforced compliance with Section 4 of the RTI Act 2005. The above must be completed within the 3 months of receiving this Order. Details of employees and other disclosures under Section 4 of the RTI Act 2005 must also be updated biannually. The Commissioner, Municipal Corporation, Ludhiana, is directed to convey compliance of this order to this Commission, no more than 3 months from the date of receiving this Order.”

3. The aforesaid Order has not been complied with. The Commissioner, Municipal Corporation, Ludhiana is given a final opportunity to intimate compliance to the Commission within 30 days of receipt of this Order.

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Appeal Case No. 3602 of 2020

4. There is no further cause for action and this Appeal Case is herewith **CLOSED**.

Sd/-

(ASIT JOLLY)

State Information Commissioner, Punjab.

Chandigarh

27.4.2022

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FINAL ORDER

Sukhchain Singh,
s/o Ajit Singh,
Sonam Mohalla, Ward No. 11,
Fatehgarh Churian,
Tehsil Batala, District Gurdaspur.

Versus

Public Information Officer,
o/o Personal Department,
(PCS Branch), Civil Secretariat,
Punjab, Chandigarh.
First Appellate Authority,
o/o Chief Secretary, Government of Punjab,
Personal Department, Civil Secretariat,
Punjab, Chandigarh.

Appeal Case No. 3631 of 2019 (Video Conference Proceedings)

Present:

(Appellant) Absent

Manoj Garg, Senior Assistant, PCS Branch (for the Respondent) 94643-51751

ORDER:

(To be read in continuity with earlier orders on 9.1.2020, 20.2.2020, 24.7.2020, 25.9.2020, 13.11.2020, 13.1.2021, and 8.7.2021)

1. The RTI application is dated **20.5.17** vide which the appellant has sought information as enumerated in his RTI application and reproduced below:

1. ਪੰਜਾਬ ਸਰਕਾਰ ਉੱਚ ਅਧਿਕਾਰੀਆਂ ਵੱਲੋਂ ਸੇਵਾ ਵਿਚ ਰਹਿੰਦਿਆਂ ਸੁਰਵੁੱਡ ਆਫੀਸਰਜ ਸੁਸਾਇਟੀ ਅੰਮਿਤਸਰ ਵੱਲੋਂ ਨਿਯਮਾਂ ਦੀ ਉਲੰਘਣਾ ਕਰਦਿਆਂ ਪਾਸ ਹੋਏ ਨਕਸ਼ੇ ਦੇ ਉੱਲਟ ਨਿਰਮਾਣ ਕਰਵਾਉਣ ਦੇ ਬਾਵਜੂਦ ਅਸਲੀ ਤੱਥਾਂ ਨੂੰ ਨਜ਼ਰ ਅੰਦਾਜ਼ ਕੀਤਾ ਗਿਆ। ਇਸ ਸਬੰਧੀ ਵਿਜ਼ੀਲੈਂਸ ਵਿਭਾਗ ਵੱਲੋਂ ਕੀਤੀ ਗਈ ਇੰਨਕੁਆਰੀ ਦੀ ਰਿਪੋਰਟ ਮੁਹੱਈਆ ਕਰਵਾਈ ਜਾਵੇ।
2. ਉਪਰੋਕਤ ਇੰਕੁਆਰੀ ਪਾਪਤ ਹੋਣ ਤੇ ਮੁੱਖ ਮੰਤਰੀ ਪੰਜਾਬ ਵੱਲੋਂ ਦਿ ਆਲ ਇੰਡੀਆ ਸਰਵਿਸਿਜ ਕੰਡਕਟ ਰੂਲਜ 1968 ਦੀ ਧਾਰਾ 13(2) ਅਤੇ ਦਿ ਪੰਜਾਬ ਗੇਰਮਿੰਟ ਇੰਪਲਾਈਜ ਕੰਡਕਟ ਰੂਲ 1966 ਦੇ ਤਹਿਤ ਕੀਤੀ ਗਈ ਕਾਰਵਾਈ ਦੀ ਰਿਪੋਰਟ ਮੁਹੱਈਆ ਕਰਵਾਈ ਜਾਵੇ।
3. ਉਪਰੋਕਤ ਕੇਸ ਵਿਚ ਜੇ.ਐਸ.ਗਰੇਵਾਲ ਉਪਰ ਦੇਸ਼ ਸਾਬਿਤ ਹੋਣ ਤੇ ਵੀ ਕਿੰਨਾ ਨਿਯਮਾਂ ਅਨੁਸਾਰ ਲਾਭ ਲੈਣ ਵਾਲੇ ਤਿੰਨ-ਤਿੰਨ ਅਹੁਦੇ ਉਪਰ ਤਾਇਨਾਤ ਕੀਤਾ ਗਿਆ। ਜਾਣਕਾਰੀ ਮੁਹੱਈਆ ਕਰਵਾਈ ਜਾਵੇ।
4. ਉਪਰੋਕਤ ਵਿਜ਼ੀਲੈਂਸ ਦਿ ਰਿਪੋਰਟ ਆਉਣ ਤੋਂ ਬਾਅਦ ਵਾ ਦੇਸ਼ੀ ਅਧਿਕਾਰੀਆਂ ਨੂੰ ਲਾਭ ਵਾਲੇ ਅਹੁਦੇ ਦਿੱਤੇ ਗਏ। ਇਹ ਪੰਜਾਬ ਸਰਕਾਰ ਦੇ ਨਿਯਮਾਂ ਅਤੇ ਰੂਲਾਂ ਅਨੁਸਾਰ ਜਾਣਕਾਰੀ ਮੁਹੱਈਆ ਕਰਵਾਈ ਜਾਵੇ।

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Appeal Case No. 3631 of 2019 (Video Conference Proceedings)

5. ਉਪਰੋਕਤ ਇੰਨਕੁਆਰੀ ਅਨੁਸਾਰ ਸੁਸਾਇਟੀ ਪਾਸੋਂ 21.80 ਕਰੋੜ ਰੁਪਏ ਰਿਕਵਰ ਕਰਨ ਅਤੇ ਸੁਸਾਇਟੀ ਮੈਂਬਰਾਂ ਵਿਰੁੱਧ ਕਾਰਵਾਈ ਕਰਨ ਲਈ ਲਿਖਿਆ ਗਿਆ ਸੀ। ਇਸ ਉਪਰ ਹੁਣ ਤੱਕ ਕੀਤੀ ਗਈ ਕਾਰਵਾਈ ਦੀ ਜਾਣਕਾਰੀ ਮੁਹੱਈਆ ਕਰਨਾਈ ਜਾਵੇ।

6. ਉਪਰੋਕਤ ਕੇਸ ਵਿਚ ਹੁਣ ਤੱਕ ਕਿੰਨੇ ਵਿਅਕਤੀਆਂ-ਅਧਿਕਾਰੀਆਂ ਵਿਰੁੱਧ ਕਾਰਵਾਈ ਕੀਤੀ ਗਈ। ਜਾਣਕਾਰੀ ਮੁਹੱਈਆ ਕਰਵਾਈ ਜਾਵੇ।

First appeal was filed with the First Appellate Authority (FAA) on **19.7.17** and second appeal was filed in the Commission on **26.9.19** under Section 19 of the Right to Information Act, 2005. The case was last heard on **8.7.2021**.

2. This case was first heard by the Hon'ble Chief Information Commissioner Sh. **Suresh Arora** on 24.10.2019, whereon it was transferred to the Registry Branch of the Punjab State Information Commission, for re-allocation to some other Bench.

3. The case was allocated to this Bench vide PSIC/Legal/2019/633 on 7.11.2019. A fresh Notice for Hearing was issued for 9.1.2020, whereon the respondent PIO, represented by **Manoj Garg**, Senior Assistant, stated that a reply was sent to the appellant vide Memo No. 5/33/2017-3 PCS/1029700/1 dated 24.7.2017 (some two months after the RTI application was received) wherein he was informed that the matter pertaining to his RTI application was under investigation ("*...case di regular padtaal chal rahi hai...*") and that the requested information could not be furnished. It was however, pointed out during the hearing that the aforesaid reply was sent more than two years ago, i.e. in 2017. It was also noted that the PIO had not bothered to determine the current status of the said investigation despite receiving this Commission's Notices of 9.10.2019 and 27.11.2019. The respondent PIO was directed to produce the original record pertaining to this RTI request at the next hearing of this Appeal Case.

4. Once again appearing on behalf of the respondent PIO, **Manoj Garg**, Senior Assistant, as directed, brought the above-mentioned original record to the hearing on 20.2.2020. Following arguments by both sides, the Commission was of the view that the requested information constitutes public record that is not exempted from disclosure as per the RTI Act, 2005. This was particularly stated to be the case as the information pertained to an investigation into allegations of corruption, which had been completed and consigned to the records (as per the respondent). In view of this, the respondent PIO was directed to furnish duly attested copies of all the record, pertaining to the RTI application, to the appellant **Sukhchain Singh**. This was to be complied with before the next hearing on 23.4.2020, under intimation to the Commission.

5. The Hearing on 23.4.2020 was postponed consequent to the curfew/lockdown ordered in the wake of the Covid 19 Pandemic. A fresh Hearing was notified for 24.7.2020.

6. At the Hearing on 24.7.2020, held via videoconferencing, both parties were absent. The respondent PIO, who was directed to supply the requested record to the appellant before 23.4.2020, failed to comply. The appellant informed the Commission vide his email of 24.7.2020

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Appeal Case No. 3631 of 2019

that he had not received any information from the respondent. Nonetheless, in view of the continuing Covid-related restrictions, the Commission extended yet another opportunity to the respondent PIO.

7. Both parties were absent at the next Hearing on 25.9.2020. The respondent PIO had still not supplied the requested information, as directed by the Commission on 20.2.2020.

8. At the next Hearing held on 13.11.2020, the respondent PIO not only remained absent for the third successive time, but he had still not supplied the requested information. Taking a serious view of the respondent PIO's conduct in continuing to deny the requested information despite successive Orders, he/she was served with a Show Cause Notice as per Section 20(1) of the RTI Act, 2005, whereby he was directed to file a written reply and was also granted an opportunity to be heard in person at the next hearing on 13.1.2021.

9. At the Hearing on 13.1.2021, the respondent PIO, represented by **Manoj Garg**, Senior Assistant, once again brought the original record pertaining to the RTI application. He was directed to make two legible copies of the entire record and duly attest each page before supplying one copy to the appellant. The second copy was to be submitted to this Bench. Also, in view of the harassment and detriment caused to the appellant **Sukhchain Singh**, the Commission awarded him Compensation of Rs. 15,000.00 to be paid by the public authority, in this instance, The Personnel Department (PCS Branch), Civil Secretariat Punjab, Chandigarh. This was to be complied with within 15 days of receiving the Order.

10. This Case was next heard on 8.7.2021, whereon the respondent PIO, represented by **Manoj Garg**, Senior Assistant, stated that the requested information was finally supplied to the appellant vide Memo No. 5/33/2017- 3PCS/80 dated 13.1.2021. A copy of the same was also received and diarized in the Commission at No. 1140 dated 15.1.2021. The respondent PIO however failed to comply with this Commission's direction to pay the appellant **Sukhchain Singh** a compensation of Rs. 15,000.00 within 15 days of receiving the Commission's Order of 13.1.2021.

11. The respondent PIO was directed, to submit in writing, a list of PIO's since the filing of the RTI application on 20.5.2017, along with their names, tenure as PIO and present posting. The respondent PIO was also directed to submit in writing, the date on which Vigilance Bureau Report, supplied by way of information to this RTI application, was received in the Department of Personnel (PCS Branch), Civil Secretariat, Punjab, Chandigarh and the date on which it was consigned to the record.

12. The respondent PIO has, vide Memo No. 5/33/2017- PCS/717 dated 9.9.2021, submitted a list of Public Information Officers as under:

Contd. ...4

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Appeal Case No. 3631 of 2019

1. N.P. Singh	29.3.2017 to 21.9.2017
2. Davinderpal Singh	22.9.2017 to 26.2.2020
3. Kailash Gautam	27.2.2020 to 19.10.2020
	19.10.2020 to 23.12.2020 (additional Charge)
4. Jagdeep Kapil	24.12.2020 to

Also, as directed, the respondent PIO also informed the Commission that the Inspector General of Police, Vigilance Bureau Punjab conducted the investigation on 2.1.2015, and the Investigation Report (copy of which was requested in this RTI application) was received in the Personnel Department (PCS Branch) on 27.7.2015.

13. It is notable here that the appellant filed this RTI application seeking a copy of the aforesaid report on 20.5.2017. Despite the investigation having been completed and the report being received in the Personnel Department (PCS Branch) on 27.7.2015, the respondent PIO's reply to the appellant Sukhchain Singh (Memo No. 5/33/2017-3 PCS/1029700/1) dated 24.7.2019, claimed that the matter was still under investigation ("*...case di regular padtaal chal rahi hai...*"). This appears to be an evident attempt by the respondent PIO to mislead the appellant and deny his request for information, which was lawfully sought under the RTI Act.

14. The First Appeal filed by the appellant on 19.7.2017 was apparently never addressed since this RTI application, originally submitted to the PIO, o/o Department of Housing & Urban Development Punjab, was transferred twice. It was first transferred under Section 6(3) of the RTI Act to the PIO o/o Chief Administrator Amritsar Development Authority vide Letter No. 4112 dated 13.6.2017. Subsequently it was once again transferred to the Personnel Department (PCS Branch) vide Letter No. 1022661/2 dated 14.7.2017.

15. The respondent PIO was first directed to provide duly attested copies of the requested information to the appellant at the Second Hearing of this appeal case in the Commission on 20.2.2020. He failed to comply.

16. The respondent PIO was once against directed to supply the requisite information to the appellant vide this Commission's Order of 24.7.2020. He against failed to comply with the direction.

17. In view of the above, the respondent PIO was issued a Show Cause Notice vide this Commission's Order of 13.11.2020, whereby he was directed to file a written submission as to why a penalty should not be imposed upon him as per Section 20(1) of the RTI Act, 2005. In addition, he was also granted an opportunity to be heard in person at the next date of Hearing on 13.1.2021.

18. Appearing at the Hearing on 13.1.2021, after the aforesaid Show Cause Notice, the appellant was once again directed to submitted duly attested copies of the Inquiry Report cited in the RTI application to both the appellant and this Commission. In its Order of 13.1.2021, the Commission also directed the Public Authority, in this instance, the Personnel Department (PCS Branch) to pay the appellant Sukhchain Singh, a penalty of Rupees Fifteen Thousand (Rs. 15,000.00) in view of the harassment and detriment caused to him, within 15 days.

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Appeal Case No. 3631 of 2019

19. At the Final Hearing of this appeal case on 8.7.2021, the respondent submitted that a copy of the Inquiry Report cited in the RTI application, had been provided to the appellant vide Memo No. 5/33/2017-3PCS/81 dated 13.1.2021. A copy of said Inquiry Report was also received in the Commission and diarized at No. 1140 dated 15.1.2021. The respondent PIO however, once again failed to comply with the direction to pay the appellant Sukhchain Singh compensation of Rupees Fifteen Thousand (Rs. 15,000.00) within 15 days of receiving the Commission's Order of 13.1.2021.

Decision

Four successive Public Information Officers (PIOs) representing the Personnel Department (PCS Branch), Civil Secretariat Punjab, at Chandigarh, have conducted themselves questionably and in evident violation of the Right to Information Act, 2005, which secures citizens the right to information under the control of public authorities, in order to promote transparency and accountability.

The appellant Sukhchain Singh who filed his RTI application on 20.5.2017, was wrongfully denied the information sought by him through a misrepresentation of the facts and thereby misleading him.

In keeping with the provisions of the RTI Act, the appellant filed a First Appeal to the First Appellate Authority (FAA) on 19.7.2017 and subsequently, this Second Appeal to the Commission on 26.9.2019.

After successively refusing to provide the requested information to the appellant, successive PIOs representing this public authority failed to comply with successive Orders / Directions from this Commission to supply the requested information to the appellant.

The incumbent PIO further failed to comply with the Commission's direction to pay the appellant a compensation for the harassment and detriment caused to him.

The incumbent PIO is herewith, directed to comply with the Commission's Order of 13.1.2021 and pay the appellant Sukhchain Singh compensation of Rs. 15,000.00 from the funds of this public authority – Personnel Department (PCS Branch), Civil Secretariat Punjab.

Ordinarily this would have been a fit case for imposing of both penalty and disciplinary proceedings against the respondent PIO. However, in view of the extra ordinary circumstances arising out of the ongoing Covid-19 pandemic, this Commission inclined to Dispose of this Appeal Case with a word of caution to the respondent PIO to be more proactive in dealing with the request for information under the RTI Act 2005, in future.

There is no further cause for action and this Appeal Case is herewith **CLOSED**.

Sd/-
(ASIT JOLLY)
State Information Commissioner, Punjab.

Chandigarh
27.4.2022