

# PUNJAB STATE INFORMATION COMMISSION

Red Cross Building, Near Rose Garden,  
Sector 16, Chandigarh.

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REGD

Sh. Rakesh Kumar Gupta,  
# 8/237, Jagraon Road, Mandi Mullanpur,  
District Ludhiana

....Appellant

Vs

Public Information Officer  
o/o E.O. Municipal Council,  
Mullanpur Dakha,  
District Ludhiana

First Appellate Authority  
o/o Deputy Director, Local Bodies,  
District Ludhiana

....Respondents

Appeal Case No. 565/2020, Appeal Case No. 566 of 2021, Appeal Case No. 567 of 2021,  
Appeal Case No. 568 of 2021, Appeal Case No. 569 of 2021, Appeal Case No. 564 of 2021,  
Appeal Case No. 573 of 2021

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Sh. Rakesh Kumar Gupta,  
# 8/237, Jagraon Road, Mandi Mullanpur, District Ludhiana

....Appellant

Vs

Public Information Officer  
o/o E.O. Municipal Council,  
Jagraon, District Ludhiana

First Appellate Authority  
o/o Deputy Director, Local Bodies,  
District Ludhiana

....Respondents

Appeal Case No. 574 of 2021, Appeal Case No. 575 of 2021, Appeal Case No. 576 of 2021,  
Appeal Case No. 578 of 2021, Appeal Case No. 579 of 2021, Appeal Case No. 580 of 2021,  
Appeal Case No. 581 of 2021, Appeal Case No. 582 of 2021, Appeal Case No. 585 of 2021,  
Appeal Case No. 586 of 2021, Appeal Case No. 607 of 2021, Appeal Case No. 606 of 2021,  
Appeal Case No. 605 of 2021, Appeal Case No. 604 of 2021, Appeal Case No. 592 of 2021,  
Appeal Case No. 591 of 2021, Appeal Case No. 589 of 2021, Appeal Case No. 588 of 2021,  
Appeal Case No. 587 of 2021, Appeal Case No. 590 of 2021, Appeal Case No. 608 of 2021.

\*\*\*\*\*

Sh. Rakesh Kumar Gupta,  
# 8/237, Jagraon Road, Mandi Mullanpur District Ludhiana

....Appellant

Vs

Public Information Officer  
o/o E.O. Municipal Council,  
Mandi Gobindgarh,  
Fatehgarh Sahib

First Appellate Authority  
o/o Deputy Director, Local Bodies,  
District Ludhiana

....Respondents

Appeal Case No. 855 of 2021, Appeal Case No. 856 of 2021,  
Appeal Case No. 858 of 2021

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Sh. Rakesh Kumar Gupta,  
# 8/237, Jagraon Road, Mandi Mullanpur  
District Ludhiana

....Appellant

Vs

Public Information Officer  
o/o E.O. Municipal Council,  
Sirhind,  
Fatehgarh Sahib.

First Appellate Authority  
o/o Deputy Director, Local Bodies,  
District Ludhiana

....Respondents

Appeal Case No. 863 of 2021, Appeal Case No. 864 of 2021,  
Appeal Case No. 865 of 2021

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Sh. Rakesh Kumar Gupta,  
# 8/237, Jagraon Road, Mandi Mullanpur District Ludhiana

....Appellant

Vs

Public Information Officer  
o/o CEO Punjab Waqf Board,  
District Ludhiana

First Appellate Authority  
o/o Chairman,  
Punjab Waqf Board,  
District Ludhiana

....Respondents

Appeal Case No. 555 of 2021

\*\*\*

Sh. Rakesh Kumar Gupta,  
# 8/237, Jagraon Road, Mandi Mullanpur District Ludhiana

....Appellant

Vs

Public Information Officer  
o/o Regional Deputy Director,  
Urban Local Bodies,  
District Ludhiana

First Appellate Authority  
Director, Local Govt. Punjab  
Municipal Bhawan, Plot No. 3, Dakshin Marg,  
Sector 35, Chandigarh.

....Respondents

Appeal Case No. 556 of 2021

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Sh. Rakesh Kumar Gupta,  
# 8/237, Jagraon Road, Mandi Mullanpur  
District Ludhiana

....Appellant

Vs

Public Information Officer  
o/o Director, Local Govt. Punjab,  
Municipal Bhawan,  
Plot No. 3, Dakshin Marg,  
Sector 35, Chandigarh

First Appellate Authority  
o/o Director, Local Govt. Punjab,  
Municipal Bhawan,  
Plot No. 3, Dakshin Marg,  
Sector 35, Chandigarh

....Respondents

Appeal Case No. 557 of 2021

\*\*\*

Sh. Rakesh Kumar Gupta,  
# 8/237, Jagraon Road, Mandi Mullanpur  
District Ludhiana

....Appellant

Vs

Public Information Officer  
o/o AEO, GMADA, Puda Bhawan,  
Sector 62, Mohali.

First Appellate Authority  
o/o AEO, GMADA, Puda Bhawan,  
Sector 62, Mohali.

....Respondents

Appeal Case No. 558 of 2021

\*\*\*

Sh. Rakesh Kumar Gupta,  
# 8/237, Jagraon Road, Mandi Mullanpur  
District Ludhiana

....Appellant

Vs

Public Information Officer  
o/o Secretary,  
Municipal Corporation,  
Sector 68, Mohali

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First Appellate Authority  
o/o Secretary,  
Municipal Corporation,  
Sector 68, Mohali

....Respondents

Appeal Case No. 560 of 2021

\*\*\*

Sh. Rakesh Kumar Gupta,  
# 8/237, Jagraon Road, Mandi Mullanpur  
District Ludhiana

....Appellant

Vs

Public Information Officer  
o/o S.D.M.  
Jagraon,  
District Ludhiana

First Appellate Authority  
o/o S.D.M. Jagraon,  
District Ludhiana

....Respondents

Appeal Case No. 584 of 2021

\*\*\*

Sh. Rakesh Kumar Gupta,  
# 8/237, Jagraon Road, Mandi Mullanpur  
District Ludhiana

....Appellant

Vs

Public Information Officer  
o/o Block Development and Panchayats Officer,  
Block Sudhar, District Ludhiana

First Appellate Authority  
o/o District Development and Panchayats Officer,  
District Ludhiana

....Respondents

Appeal Case No.691 of 2021

ORDER

Taking suo-motu cognizance of the matter that the appellant is filing number of cases under the Life and Liberty clause as per the provisions of the RTI Act, 2005, and in the larger public interest, an email dated 23.8.2021 was sent to the appellant regarding 35 number titled 2<sup>nd</sup> appeal cases seeking his comments, his reply was received through email dated 27.8.2021.

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2. It is pertinent to mention here that in addition to above mentioned appeal cases, 91 Second Appeal cases have already been filed by the appellant in the Punjab State Information Commission (PSIC) during the year 2021 (till date) and 56 during the year 2020 invoking the Life & Liberty Clause as per Section 7(1) of the RTI Act, 2005. After examining by the PSIC, all these cases have been considered under the 'General Category'. Out of these cases, the PSIC allocated 35 cases to the Bench of Hon'ble State Information Commissioner, Mrs Preety Chawla. However, after she demitted office on 7.9.2021, all these 35 cases have since been allocated to the Bench of State Chief Information Commissioner. During the consideration of the said 35 cases, 6 more similar appeal cases filed by the appellant under the Life & Liberty Clause, has been allocated to the State Chief Information Commissioner Bench. Thus a total of 41 cases are presently under consideration.

3. After examining these cases, it was noted that all the Second Appeal cases have been filed by the appellant under the Life & Liberty Clause, whereas the information requested in all the cases is of a general nature.

4. For instance, the information sought by the appellant in few cases is as follows:-  
Appeal Case No. 564 OF 2021

- I. Kindly provide the certified copies of records of property and house tax on monthly, quarterly, Half yearly and annually basis as per the reports and records compiled by the MC. Provide amount recovered against each receipt giving receipt No.
- II. Kindly provide the certified copies of records of interest on delayed property and house tax on monthly, quarterly, Half yearly and annually basis as per the reports and records compiled by the MC. Provide amount recovered against each receipt giving receipt No.
- III. Certified copies of records of initiatives made by the MC to recover due/delayed house Tax and property Tax. Pls provide copies of notices issued and penalties imposed on defaulters. Provide certified copies of receipts recoveries of penalties imposed.
- IV. Provide certified up to date (current) list of property and house tax defaulters. Provide details of recoverable amount from each defaulter.

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Appeal Case No. 565 OF 2021

- I. Kindly provide the certified copies of complaints lodged with Sec Local Govt. Punjab and complaints forwarded by Vigilance department of Punjab for inquiry from time to time since 1-1-2018. Specially complaint lodged on 9-8-2019 vide Email.
- ii. Certified copies inquiry report of inquiries done.
- iii. Certified copies of record of files movement of inquiries.
- iv. Certified record of current status of inquiry.
- v. Certified record of day to day inquiry in each case.
- vi. Certified copies of records and statements taken in the inquiry done.
- vii. Certified copies of inquiry recommended and complaints forwarded to other officials.
- viii. Since the information pertains to attack on RTI Activist and Journalist (complainant), the complaint is facing threat of life and liberty from the accused and the police itself, the same be provided within 48 hours from the receipt of this application as prescribed U/s 7 (1) that states " where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request."
- ix. In case part of the information sought by the applicant pertains to some other PIO, the application be transferred to that PIO as per subsection (ii) of Section 6 (3) of RTI Act. 2005.
- x. Kindly provide an appointment to verify the original records pertaining to information sought after providing the information after written intimation and list of officials to be present at the time of inspection.

Appeal Case No. 566 of 2021

- i. Kindly provide the certified copies of record of population of city in year 2000 and record of population during each census.
- ii. Certified copies of details of abolition/creation of Jobs/Posts in MC and the record of population of city at the time of each abolition/creation of Jobs/Posts.
- iii. Certified copies of agenda of house or committee and resolution/order passed for abolition/creation of Jobs/Posts in MC.
- iv. Certified copies of appointment letters of employees appointed after 2000 along with their Educational/experiences certificates.
- v. Certified copies of list of permanent employees of MC and the details of each retired/dismissed/transferred employee and new appointed employee.
- vi. Certified copies of record of each employee of MC and the details of post/seat they are occupying today.

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Appeal Case No. 567 of 2021

- i. Kindly provide the certified copies of registration certificates of contractors and L/c societies with Income Tax (for TDS Purpose), EPFO, ESI, Labour Commission and co-operatives Societies.
- ii. Certified copies of insolvency certificates, Capacity & entitlement certificate of the contractor and L/C Societies.
- iii. Certified copies of details of job works allotted to each of the contractor and L/C Societies as per revenue year of the department in this MC and through out Punjab (copy of affidavit regarding it be provided).
- iv. Certified record of withdrawal of Capacity & entitlement certificate of the contractor and L/C Societies.
- v. Certified record of blacklisting of the contractor and L/C Societies.

Appeal Case No. 568 of 2021

- i. Certified copies of complaints/notices follow-ups along (with all annexure) stated above lodged by the applicant Rakesh Kumar Gupta, Jagshir Singh and Manpreet Singh Aulakh (all in personal capacity and as executive members of NGO Watchdog) and other persons sent through post/Email. Provide receipt numbers of complaints and copies of receipt register pages of that days. The complaints/Notices and follow-ups are Dated: 7-7-2017, 2-8-2017, 13-8-2017, 17-8-2017, 16-4-2018, 28-4-18, 31-5-2018, 5-9-2018, 6-9-18, 13-9-18, 22-9-18, 24-9-2018 13-10-18, 6-11-18, 14-11-18, 16-11-2018, 11-12-18, 3-6-19, 28-1-19, 14-2-19, 12-3-19, 13-3-19, 5-4-19, 8-5-2019, 13-5-19, 14-5-19, 19-5-19, 23-5-19, 8-7-19, 8-8-19, 9-8-19, 31-10-19, 4-12-19, 5-12-19, 21-1-20, 25-3-2020 29-6-20, 1-7-2020 and other complaints
- ii. Certified details of Inquiry Officer in the complaints/notices.
- iii. Certified copies of summons sent to parties. Provide postal receipt if summons send by post, in person or on phone (Give name & phone No. of officer used for calling and phone No. called)
- iv. Certified copies of statements of complainant, accused and other persons recorded in all the complaints and copy of records taken into account for inquiry .
- v. Certified copies of complaints marked by or transferred by officers of Local Govt. department along with records of action taken on them.
- vi. Certified records of present status of building against whom information/complaint was given.
- vii. Certified copies of inquiry report and supplementary inquiry reports in all cases.

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Appeal Case No. 569 of 2021

- i. Certified copies of records of grants/aids/materials received for COVID19 Prevention.
- ii. Certified copies of records of Permissions from State/central Govt. to spend money for COVID19 Prevention. Provide copies of orders, circulars, directions etc.
- iii. Certified copies of records of material/ration/food received for COVID19 Prevention State/central Govt. agencies and NGOs
- iv. Certified records of material/ration/food purchased for COVID19 Prevention and the quotations and bills and delivery challan of material/ration/food received and purchased for COVID19 Prevention.
- v. Certified records of Stock Registers, Distribution, issue and dispatch records of material/ration/food for COVID19 Prevention.
- vi. Certified records of the amounts spent for welfare and security (from COVID19) of city dwellers.
- vii. Certified records of Thermal Temperature scanner, PPE Kits, received and purchased for COVID19 Prevention.
- viii. Certified records of vehicle/machineries hired or purchased for disinfectants spray. Provide certified copies of tenders, quotations, bills, and payment made records.
- ix. Provide copies of attendance registers of staff of MC Mullanpur, Movement registers of Staff and vehicles log book of vehicles used by MC Staff, EO and other persons.
- x. Provide certified copies of Misc./petty expenses done and their bills.

Appeal Case No. 573 of 2021

- i. Kindly provide the certified copies of all receipt and dispatch registers maintained by MC including registers maintained to issue special despatch and receipt numbers since 1-1-2020 till date of providing the information.
- ii. Kindly provide the certified copies of page of opening and closing of receipt and dispatch registers.
- iii. Certified copies of copies of complaints/FIRs registered for stolen, damaged and destroyed receipt and dispatch registers.
- iv. Provide certified copies of rules under which registers can be maintained to issue special despatch and receipt numbers.
- v. In case part of the information sought by the applicant pertains to some other PIO, the application be transferred to that PIO as per subsection (ii) of Section 6 (3) of RTI Act. 2005.
- vi. Kindly provide an appointment to verify the original records pertaining to information sought after providing the information.

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Appeal Case No. 590 of 2021

- i. Certified copies of list of offline and online submission of building plans by architects and engineers registered in the Municipal Council. Pls provide date of submission, date of approval by Draughtsman, Building Inspector/clerk, JE/SO, AME/ATP/STP and EO.
- ii. Certified copies of scrutiny report of each online submission of building plans along with current status and login records and details if the building plan is of residential, commercial, factory, school, hospital etc.
- iii. Certified copies of site details, architect details, paid/unpaid fee and other charges payments details, Site specifications, documents uploaded details, comment made by various officials as per ENaksha portal of each case uploaded.
- iv. Certified records of building plans that are not approved due to non regularisation of colonies and plots.
- v. Certified records/policy of the local Govt. department under which any plot or building could be declared irregular.
- vi. Certified copy of rules regarding passing time frame of each online submission of plans by Building Inspector, Draughtsman, JE/SO AME/ATP/STP, and EO.
- vii. Certified copy of rules regarding time frames for auto approval of building plans and the process under which auto approved building plan could be reverted. Pls also provides the rules regarding action to be taken against Building clerks, Building Inspector, Draughtsman, JE/SO AME/ATP/STP and EO in case of auto approval of building plans.
- viii. Certified copies of records of auto approved building plans in this municipal body.
- ix. Certified copies of rules regarding Deemed to sanctioned Building plans and process of obtaining a copy of deemed to sanctioned building plans from EO of MC or any other concerned authority of Local Govt. Department in concern of Municipal Council.
- x. Certified copy of rules regarding time frames for which a applicant has to wait for approval of commercial, residential and any other type of building after applying for building plans.
- xi. Certified copies of records of reports regarding online and offline building plans received by municipal body, Building plans approved, rejected and pending giving to senior authorities of Local Govt. department. Also provide certified copies of letters of demand of reports regarding online and off line building plans sent by senior authorities of Local Govt. department to municipal body.
- xii. Certified copied of online and offline amendments of building plans.
- xiii. Certified copies of permission letter of approved building plan and rejection letter/comment of rejected plan.
- xiv. Certified record of present status of rejected building plans.
- xv. Certified details of complaints received by MC directly or through other senior officer or other department against off line building plans. Provide copies of statements recorded, record considered in inquiry report, inquiry report and action report on complaints.
- xvi. Certified record of joining letters and relieving letters of Building clerks, Building Inspector, Draughtsman, JE/SO AME/ATP/STP and EO of MC from 1-1-2016.
- xvii. Certified copies of Building Challan/notices U/s 195, 195-A, 172 and 120, Building Permits issued and action taken further on these notices and the present status of notices.

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Appeal Case No. 591 of 2021

showing purpose of the grant.

- i. Kindly provide the certified copies of all tenders/E-tender and quotations (with all annexure). received by M.C. Jagraon for Civil, electrical and other types since for grants received under Urban Mission and other development works. Please provide copies of technical and financial bids of opened tenders. Please also provide copies of technical bids of rejected tenders. Provide copies of tenders floated/advertised since 1-1-2018.
- ii. Certified copies of agreements made with contractors for job permit given after 1-1-2018.
- iii. Provide certified copies of agenda of MC and resolution passed by MC for job works for which tenders/quotations are demanded.
- iv. Provide certified copies of comments of rejection of job works by EO or other officials of Local bodies. Provide copy of original resolution passed by house regarding the rejected tenders from 1-1-2018 onwards.
- v. Provide certified copies of estimates of job works for which tenders/quotations are demanded and certified copies of work permit allotted.
- vi. Kindly provide certified copies records regarding name and address of contractors and societies. Also provide Certified copies of memorandum of association and constitutions of all such Co-Op Societies who have availed contracts in MC Dakhla. Also give the then list of members of society.
- vii. Provide copy of incumbency certificate and Entitlement certificate of contractors.
- viii. Provide EPFO registration, Labour commissioner registration, ESI registration certificate and no dues certificate from these departments. Provide copies of ESI and EPFO returns filed by contractors or funds deposited and funds pending of contractors.
- ix. Provide copy of permission of from AR/DR Cooperatives societies of the Ludhiana district obtained by contractors for working in other district or/and exemption letter of Co-operative department Punjab or district.
- x. Certified copies of the then pending works and unpaid works of each contractor throughout Punjab of all such Co-Op Societies who have availed contracts in MC Dakhla. Kindly provide a copy of affidavit taken from contractors in this regard.
- xi. Kindly provide copy of affidavit/undertaking of contractors that they have not been declared defaulter or blacklisted throughout in Punjab.
- xii. Certified copies of pending works and unpaid works done from the Urban Mission and other development grant.
- xiii. Certified copies of records of returning unused amount from the grants and the amount saved by doing discounted jobs by the contractors.
- xiv. Certified details of completed and uncompleted job works from the Urban Mission and other development grants.
- xv. Certified copies of bill submitted, MB book, payment slips and payment vouchers of payment made by contractors from the Urban Mission and other development grants.
- xvi. Kindly provide an appointment to inspect official computer pertaining to information sought/tenders after providing the information after written intimation and list of officials to be present at the time of inspection in presence of official computer operation.

Rest of the information sought by the applicant pertains to some other PIO.

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- i. Certified copies of NOC, no dues certificates given to residents of Jagraon regarding to their plots and buildings.
- ii. Certified copies of receipts issued to plot or colonies owners for the payment made by them to regularize their plots and colonies.
- iii. Certified copies of regularisation certificates issued to property owners of irregular buildings and plots.
- iv. Certified records/policy of the local Govt. department under which any plot or building could be declared irregular and the process and fee slabs to get it regular issued from time to time. Provide time frame validity of policy also (Date up to which applicable).

Appeal Case No. 592 of 2021

1. Provide certified copies record of arrival of various types of funds from various sources for various schemes for developments.
2. Provide certified copies record of arrival of various types of funds from various sources for various schemes for various type of grants for local people.
3. Provide certified copies of record of arrival of various types expenses made and development work done by various agencies/departments under various schemes for developments.
4. Provide certified copies record of municipal funds available and arrived in MC Jagraon.
5. Provide copies of tenders floated and tenders received (along with all annexure) from various parties for developments works by MC Jagraon or any other agency.
6. Provide copies of quotations demanded for petty jobs quotations received (along with all annexure) from various parties by MC Jagraon or any other agency.
7. Provide certified copies of objections/complaints received against development work during this period.
8. Kindly provide certified copies of allotment letters of job work/work permit and completion certificates.
9. Kindly provide certified copies of agreement with the contractor. provide certified copies of records of incomplete work or cancelled tenders after floating tenders and after issuing work permit.

5. After the perusal of the titled cases cited above, it is amply evident that in none of the cases does the information requested, qualify as concerning the Life or Liberty of the appellant. In such a scenario, where the Public Information Officer (PIO) ought to have had 30 days (as per the RTI Act, 2005) to supply/deny the requested information as the case may be, in most of the cases the concerned PIOs had just about seven days time to consider the RTI application(s). Subsequently, the First Appellate Authority (FAA) got only 10-15 days, rather than the 45 days stipulated by the RTI Act, to decide the First Appeal(s). Consequent to the above, Second Appeal(s) to the PSIC have been filed far ahead of the time period stipulated by the RTI Act.

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6. In view of the evident anomalies introduced because of the erroneous invocation of the Life & Liberty Clause, the appellant was granted an opportunity to submit his reply/response (within three days) on why the titled cases should not be remanded back to the concerned public authority(s), to decide each case as per the timeframe stipulated in the RTI Act, 2005, in the interest of natural justice to all parties.

7. Since, the appellant has filed all the First Appeals to the concerned FAA(s) via email, the Notice(s) of Hearing was served to him through email. A copy of the same has been placed on record.

8. The response filed by the appellant vide his email dated 27.8.2021 is reproduced below:-

"In reference to your notice Dt. 23-8-2021 sent to me vide Email regarding my 35 Second appeals filed by me U/s 7(1) of RTI Act. I understand that using the discretionary powers, the state Information Commission has considered my RTI Applications as general appeals and is planning to revert my appeals back to PIO to be considered a normal application. This is absolutely not fair.

You have cited the excerpts Central Information Commission New Delhi in its decision dated 09.05.2012 in Appeal no. CIC/SG/A/2012/000814 has held as under:-

*"The life or liberty provision can be applied only in cases where there is an imminent danger to the life or liberty of a person and the non-supply of the information may either lead to death or grievous injury to the concerned person. Liberty of a person is threatened if she or he is going to be incarcerated or has already been incarcerated and the disclosure of the information may change that situation. If the disclosure of the information would obviate the danger then it may be considered under the proviso of Section 7(1). The imminent danger has to be demonstrably proven. The Commission is well aware of the fact that when a citizen exercises his or her fundamental right to information, the information disclosed may assist him or her to lead a better life. But in all such cases, the proviso of Section 7(1) cannot be invoked unless imminent danger to life or liberty can be proven."*

If we go in breakup of this excerpt, the decision allow invoking of section 7(1) of RTI Act 2005:

(i) *In cases where there is an imminent danger to the life or liberty of a person and the non-supply of the information may either lead to death or grievous injury to the concerned person.*

(ii) *Liberty of a person is threatened if she or he is going to be incarcerated or has already been incarcerated and the disclosure of the information may change that situation.*

(iii) *If the disclosure of the information would obviate the danger then it may be considered under the proviso of Section 7(1). The imminent danger has to be demonstrably proven.*



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Reply in Brief:

Sir, I am facing life threat not only now but since 19-9-2021 when I was booked in fake FIR No. 197/2014 (Annexure A-1) registered at PS Dakha, Ludhiana Rural just to stop me from filing RTI applications. In this case the complainant has already filed an affidavit that I had no concern in the case. When I did not bow before the political leaders and police, I was on 20-9-2021 booked in two more FIR 199 (Annexure A-2) and 200 (Annexure A-3) of 2014 registered at PS Dakha, Ludhiana Rural. I remained unmoved and on 24-9-2021 I was booked in old FIR No. 23 (Annexure A-4) of 2014 registered at PS Dakha, Ludhiana Rural. I have acquitted in FIR No. 199, 200 and 23. FIR 197 remained pending due to Covid-19 outbreak and closures of court work.

Thereafter these corrupt politicians and officers tried to damage my reputation by filing forged complaint against me. The first one was the attempt of The Mullanpur Arthia Association who wide letter Dt 28-5-2015 (Annexure A-5) tried to stop me from filing RTI applications. The complete Arthia Association stood besides me and signed a declaration in my favour on 2-12-2015 (Annexure A-6). After their failed attempt some persons tried to damage my reputation by filing forged complaint against me Dt. 18-11-2016 (Annexure A-7) on the forged letter pad of Shopkeepers Welfare Association Mullanpur to which its then president Mr. Sarvarinder Singh Cheema (99152-30004) stated the letter pad as well as his signs forged. This complaint is addressed to Information Commission Punjab. another undated complaint addressed to SSP Jagraon was forwarded SSP Jagraon on Dt. 16-1-2018 (Annexure A-8) to CIC, Punjab State Information Commission. Interestingly this complaint has no record of arrival in SSP office and police took no action on it except forwarding it to CIC, PSIC.

All these acts of my opponent politicians and officials could not stop me from filing the RTI applications. Then started the series of physical attacks on me which are detailed as under:

i) I was subjected to physical attack in the night of 25-5-2018. At that time no suitable strict action was taken against the accused except making DDR entry No. 14 Dt. 2-6-2018 (Annexure A-9) at PS Dakha, Ludhiana Rural. In that case accused **Bajrang Bansal was arrested and released on Bail in preventive action U/s 107/151 Cr.P.C. against only 4 of the 8 accused. In that case too Bajrang Bansal had admitted that their attempt was made to stop me from filing of RTI applications with MC Dakha and other departments and for writing stories against them in newspaper.**

ii) **That on 25-9-2018, President Telu Ram Bansal after instigating Sr. Vice President of the house S. Balwinder Singh Sekhon had attacked me when I went to MC Dakha office on the request of the then EO Sukhdev Singh Randhawa to inspect records files sought under RTI Act.** Mr. Telu Ram threatened of dire consequences in case I did not stop filing RTI applications with MC Dakha and writing stories in newspapers against them and the misdeeds rampant in MC Dakha. The physical attack was averted by the timely intervention by Vice President of the MC Dakha S. Mohinder Pal Singh Lali. **A written complaint (Annexure A-10) regarding this attack was given to PS Dakha as well as through 181 police helpline. No action was taken on that complaint under political pressure.**

iii) That on 2-4-2019 while returning from Punjab State Information Commission in Sector 16, Chandigarh, after attending the hearing of appeal No. I3236\_18 (with Director, Local Govt Punjab, Registrar-Co-operative Society

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Punjab, Labourfed Punjab, EO, MC Mullanpur Dakha etc.) two unidentified youth threatened me to drop the appeal and other appeals against the local Govt. Department or face dire consequences. The matter was reported to Police line 100 (Annexure A-11) and he got his statement recorded with the cops arrived on the spot

**iv)** That on 8-5-2019, the accused Bajrang Bansal made a telephonic threat to me and threatened to eliminate him for not stopping filing RTI applications and writing stories in his newspaper against them. The complaint (Annexure A-12) was lodged immediately but the **P.S. Dakha police did not took that threat seriously and let him off by giving a stern verbal warning. Even no entry was made in the DDR register.**

**v)** That I faced a fatal attack on my life by the gang of a gangster of the area on the early morning of 1-6-2019 when I, in routine manner went to village Mullanpur to fetch milk for the family. I defended for my life actively till the three assailants started attacking me at a time. My resistance failed the deadly attempt of the assailants but left me with broken legs, fingers with severe back and head injuries. The vehicle Manuti Esteem Car PB-10BF-0930 used in attack and the three assailants are seen in the CCTV footage of Mata Gujri Gurudwara Sahib of Mullanpur village where the attack took place ((Annexure A-13). That the over confident assailants attacked me bare faced in broad daylight morning and had also told me that they have come to kill me at the instance of Bajrang Bansal, Councilor Jaswinder Singh Happy and a press reporter who I was to expose of his blackmailing the local persons. They used Iron Pipes and Iron Rods in the attack. After attacking him, the assailants made a 7 second video clip (Annexure A-14) of my crying for help in acute pain and broken limbs. They send the video clips to their masters who had paid them. After shooting the event thereafter they again started thrashing me with Iron Pipes and Iron Rods and even tried to disrobe me. Video and audio recording statement of accused Jaswinder Singh Threatening me is Annexure A-15 and 16.

**vi)** **Sadly till date, the Police has not tried to locate the origin of this video clip and the mobile No. and IP address used by the video shooters to send the clip to their masters who are the real accused as they have hatched the conspiracy to eliminate me through paid gangsters. All the persons to whom this video was sent by the gangster are accused of attack on me U/s 307 IPC and the persons to whom this video was resent by these criminals are co-conspirators in the attack as they all celebrated this attack on me.**

**vii)** That except timely FIR No. 90 U/s 307, 379B, 120 B IPC Dt. 1-6-2019 (Annexure A-17) registered at PS Dakha, Ludhiana Rural, Punjab, no attempt has been made by the police to save the life and property of me and my family who got seriously injured in the Supari killing attack on him. I fear that he may face another attack from the accused to get him eliminated. **In spite of all this no attempt to arrest the accused has been made so far and all the accused are roaming freely in the town and making public appearances and threatening and influencing the eyewitnesses of the attack.**

**viii)** The District Administration as well as police administration failed to follow the advisories/guidelines framed in **Notification No. 5/213/2012-4H4/226 Dt. 11-01-2013** (Annexure A-18). of Govt. of Punjab, Department of Home Affairs and Justice be also followed in its true spirit which are being grossly violated in this case despite several requests.

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ix) That despite the above stated known facts and several representations to various top cops of Punjab police, District and state administration, the Ludhiana Rural police has done nothing in this case (FIR No. 90). I survived the Supari (Contract) killing attempt yet I faces threats of further attack. the accused are roaming freely and are threatening and influencing witnesses and wiping out the evidences the accused left behind. The police is also supporting the accused. The DSP Dakha in his inquiry Dated 12-7-2019 (Annexure A-19). and SP(H) Jagraon in his inquiry dated 28-10-2019 ((Annexure A-20) which was based on inquiry of DSP Dakha absolved the accused and diluted the sections of FIR. The MLR given by DMC&H Ludhiana (Annexure A-21) was ignored by the police without any medical opinion. The Ludhiana Rural police sat over my more than 3 dozen representations and disposed them off without inquiry which is evident from the letter of SSP Ludhiana Rural Dt. 29-7-2020 (Annexure A-22). I sent a dissatisfaction application Dt. 3-8-2020 (Annexure A-23) to nearly all the concerned offices and officers but Ludhiana Rural police is not interested in saving my life. Rather they are promoting the assailant to attack me.

x) All my representations to SSP Ludhiana Rural police and SHO, PS Dakha besides other representations forwarded by various top cops of Punjab police, District and state administrative officer forwarded to DIG Ludhiana and SSP Jagraon has fallen to deaf ears. The DSP Dakha on 4-8-2019 has given a false statement (Annexure A-24) and SSP (Annexure A-25) in this regard before the bench of Sh. Yashvir Mahajan, State information commission Punjab and these are also reflected from the orders of the learned commissioner in Appeal Cases No. 2596/2019, 2598/2019, 2599/2019 & 2600/2019 (Annexure A-26 & 27).

xi) That I was again attacked on 8-3-2021 in a daring attempt in the office of Sub Registrar Mullanpur Dakha. I saved my life by running into the office of Naib Tehsildar. A complaint was immediately lodged by me but the Dakha police except recording my statement on 4-4-2021 (Annexure A-28) took no action against any of the accused till date.

xii) That the SSP and the junior officials has wrongly deposed before various commissions including Punjab Human Rights Commission and Punjab Information commission that the case of my security application is already being taken by Deputy Commissioner Ludhiana. They even filed a false affidavit in the Hon'ble Punjab and Haryana High Court regarding this matter. Whereas the fact is that the DC Ludhiana along with his district committee sat for the first time on 3-8-2021 after a lapse of 27 months for a decision to be mandatorily taken within 48 hours. Though 23 days has passed now the decision of the district committee for my security is still awaited.

The above matter clearly indicates that my life is at threat due to my RTI applications in each case. I might be attacked any time and any place. Hence my filing of RTI applications U/s 7(1) of RTI Act. 2005 are justified. Rather it is also the responsibility of the Information commission to ensure its RTI activist protected from the Goons, whose masters they are going to exposed "

"....."

"The most of the details I could collect in three days has been provided which clearly shows that in order to stop me from filing RTI applications and availing information and has been subjected to so many attacks. The worse part in my case is that the police is supporting these criminals and also wants them to eliminate me. And I am the mot eligible person to get all the information U/s 7(1) of RTI Act. 2005.

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Moreover in all the above stated 34 cases, It is clear that the PIO/FAA got more than 2 months after receiving the Memo of hearing from the Hon'ble benches of State Information commissions and in case we count our period from that day, the period of 30 days of PIO to provide information and the period of 45 days of FAA to start hearing the appeal cases has already expired and in most of the cases, there is absolutely no communications from them.

**It should also be considered that I never insist for penalties for PIO or compensation for myself in the case. Since 2006, when I started filing RTI Applications, I have never got penalized PIO for more than 6 times or got compensations in more than a dozen cases till date in last 15 years. I do not think that even the new RTI applicants could match my low rate of penalties and compensations. I have always been interested in availing information only.**

**Rest is your discretionary powers and the RTI Act. 2005 is silent over this issue and have no provisions of reverting back of RTI applications back to PIO or FAA.**

Expecting a justified decisions in favour of RTI activities who endangers their life for using RTI Act to expose corruption in departments leading to full transparency and adopting the corrective measures that always goes in favour of general public."

In the interest of natural justice the notice of hearing was also issued to the parties for hearing on 24.9.2021 and on the said date after hearing both the parties, the orders in this case was 'RESERVED' to be pronounced.

9. The Central information Commission, New Delhi has been succinct in its Order of 9.5.2012 (Appeal No.CIC/SG/A/2012/000814) wherein, it allowed the invoking of Section 7(1) of the RTI Act, 2005:

(i) In cases where there is an imminent danger to the life or liberty of a person and the non-supply of the information may either lead to death or grievous injury to the concerned person.

(ii) Liberty of a person is threatened if she or he is going to be incarcerated or has already been incarcerated and the disclosure of the information may change that situation.

(iii) If the disclosure of the information would obviate the danger then it may be considered under the proviso of Section 7(1). The imminent danger has to be demonstrably proven.

10. After perusal of the record related to the subject cited appeals and the reply filed by the appellant, it has transpired that in none of the cases does the information sought concern Life and Liberty of a person. Rather it is general in nature. It is pertinent to mention here that it appears that requested information relates to various aspects of the working of



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the concerned public authority, and the appellant has not shown how the information sought relates to his life or liberty. Instead, the appellant has expressed an apprehension that “fake” FIRs have been registered against him because he is an RTI activist and he should be protected.

11. As far as the information under the Life & Liberty Clause in accordance with the provisions of the RTI Act, 2005 is concerned, Section 7 of the Act provides that

“7. (1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request. “

12. It is appropriate to mention here the decision of the Central Information Commission in Appeal No. CIC/SG/A/2012/000814 in Mr. Pratap Kumar Jena, Bhaunria, PO- Sukleswar Cuttack, Odisha-754286 Vs Dr. D. Ram, Public Information Officer & Professor of Psychiatry, **Central institute of Psychiatry** Establishment Section Kanke, Ranchi Jharkhand – 834006 in which the appellant has sought the following information:-

- a. Copy of the compliant of self
- b. Copy of the office order for the enquiry in this regard
- c. Name of the members of the enquiry committee
- d. Date of Enquiry
- e. Name of the persons enquired
- f. Copy of letter asking ‘enquired persons’ to attend the enquiry of the committee

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g. Copy of statement of the enquired persons/witnesses it Copy of the enquiry report

i. Action taken on the enquiry report by the competent authority

j. Basis of decision of competent authority with reference to provisions of the government rules. Please provide certified copy of the rule in this regard

and the decision passed in this case is as follows:-

“Dr. D. Ram, Public Information Officer & Professor of Psychiatry on video conference from NIC-Ranchi Studio; The Appellant admits that he received the information on 10 March 2012. The Commission pointed out to the Appellant that the information sought in this RTI application could not be categorized as information affecting life and liberty.

Proviso of Section 7(1) states that *where the information sought concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request*. This provision has to be applied only in exceptional cases and the norm is that information should be provided within thirty days from the receiving date. Whether the information sought concerns the life or liberty of a person has to be carefully scrutinized and only in a very limited number of cases this ground can be relied upon. The government machinery is not designed in a way that responses to all RTI Applications can be given within forty-eight hours. A broad interpretation of ‘life or liberty’ would result in a substantial diversion of manpower and resources towards replying to RTI Applications which would be unjustified. Parliament has made a very special exception for cases involving ‘life or liberty’ so that it would be used only when an imminent threat to life or liberty is involved.

The life or liberty provision can be applied only in cases where there is an imminent danger to the life or liberty of a person and the non-supply of the information may either lead to death or grievous injury to the concerned person. Liberty of a person is threatened if she or he is going to be incarcerated or has already been incarcerated and the disclosure of the information may change that situation. If the disclosure of the information would obviate the danger then it may be considered under the proviso of Section 7(1). The imminent danger has to be demonstrably proven. The Commission is well aware of the fact that when a citizen exercises his or her fundamental right to information, the information disclosed may assist him or her to lead a *better life*. But in all such cases, the proviso of Section 7(1) cannot be invoked unless imminent danger to life or liberty can be proven.”

13. The free flow of information is must for a democratic society, as the same helps in growth of the society. No doubt the information ensures transparency and accountability in

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governance and thus becomes a vibrant tool of efficacious democracy. Furthermore, the fundamental right to speech and expression under Article 19(1) of the Constitution of India can never be exercised until and unless information regarding public matters is freely circulated. This makes Right to Information Act, 2005 a very important legislation.

14. The RTI Act explicitly authorizes the common man with an instrument to access information from any public office and such public office is bound to provide the information sought. According to the RTI Act, information sought has to be supplied by the public authority within 30 days from the request of the RTI application with the exception that in case the sought information concerns the 'life and liberty of a person', then the information has to be supplied within 48 hours as per the proviso within Section 7(1) of the RTI Act.

15. Where the applicant satisfies the criteria that the information requested by him or her concerns an 'imminent threat to the life and liberty', the Act provides for disclosure of such information, which might be used for the protection of his or her life and personal liberty. In cases, where such a threat *prima facie* evident, the Public Information Officer is duty-bound to provide the requested information within 48 hours.

16. Life and liberty are two of the most important facets of our existence. Right to life means the right to lead meaningful, complete and dignified life. It is something more than surviving or animal existence. Liberty is the immunity from arbitrary exercise of authority. It has also been defined as freedom of choice, enjoyment of rights which belong to us as individuals, freedom from all restraints with the exception of those that are imposed by law etc.

17. However, the term 'life or liberty of a person' has not been explicitly defined in the RTI Act. In this case, one can draw such definition from Article 21 of the Constitution which guarantees that '*no person shall be deprived of his life or personal liberty except according to procedure established by law*'. In a barrage of cases, over many years, the Supreme Court has interpreted and widened the scope of the right to life and liberty to include –

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Right to live with human dignity, free from exploitation	<i>Bandhua Mukti Morcha v. Union of India</i> , [1984] 3 SCC 161
Right to livelihood	<i>Olga Tellis v. Bombay Municipal Corporation</i> , 1985 SCC (3) 545
Right to speedy trial	<i>HussainairaKhatoon v. State of Bihar</i> , [1979] 3 SCR 169
The right to privacy	<i>Justice K. S. Puttaswamy (retd.) v. Union of India</i> , WP (C) 494 of 2012
The right against solitary confinement	<i>Sunil Batra v. Delhi Administration</i> , [1978] 4 SCC 494
The right against bar fetters	<i>Charles Sobraj v. Superintendent, Tihar Jail</i> , 1979 SCR (1) 512
The right to legal aid	<i>Madhav HayawadanraoHoskot v. State of Maharashtra</i> , 1979 SCR (1) 192
The right against delayed execution	<i>T.V. Vatheeswaran v. State of Tamil Nadu</i> , AIR 1983 SC 361
The right against custodial violence	<i>Sheela Barse v. State of Maharashtra</i> , [1983] 2 SCC 96

18. The above rights are non-inclusive interpretations of right to life and liberty under Article 21. When one wishes to file an RTI application under 'life and liberty' clause to get information within 48 hours, he has to refer to the Constitution to understand what is covered within this term.

19. In the case of *Ashok Randhawa v. Lok Nayak Hospital, Govt. of NCT of Delhi*, CIC/SG/C/2009/000453, information was sought regarding a child, Shanno, d/o Ayub Khan, who breathed her last due to alleged punishment/beatings given by a teacher of her school. The Appellant had sought the medical history of the child, cause of death, the status of the child when taken to casualty, treatment given to her in casualty to control seizures, and findings of C.T. Scan within 48 hours, terming it as an issue of 'life and liberty'. The Commission accepted the contention of the PIO that the 'life and liberty' (the child) in this case is dead, hence there was no imminent danger to life and liberty.

20. In a similar case of *Pushpa & Anr. v. Guru Teg Bahadur Hospital*, CIC/PB/C/2008/00304, 00310, 00868 and 00866-7, the Respondent hospital submitted that



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if each and every case of a patient is taken as a case of life and liberty, then probably hospital authorities would only be attending to the RTI matters rather than attending to the patients. The Commission agreed with the view that every case of treatment cannot be treated as a case of 'life and liberty' and hence the information is exempt from disclosure under the Act. If the balance of public interest does not favour disclosure, the public authority is not bound to disclose the information.

21. Section 7(1) of the Act is the beating heart of the Act. Applicants seeking information as per the proviso of Section 7(1) of the Act could include prisoners seeking to know the date of release/apprehending delay in release; pensioners with little means, who require information about delayed or unpaid pension; persons seeking maintenance-related information of dependent wife/son/senior citizen/inmate of a juvenile home etc. It is, therefore, crucial to recognise the urgency in such instances and act with empathy and alacrity.

22. Keeping in view the above, the Commission is of the considered view that in none of the titled cases, the information sought by the appellant concerns his Life and Liberty. Therefore, the Commission is of the considered view that in all the titled cases reasonable time must be given to the public authority to decide the matter strictly within the time frame fixed by the provisions of the RTI Act, 2005. The appellant regularly files RTI applications. During the year 2021 (till date), he has filed Second Appeals for 91 applications, out of which 41 Second Appeals are under consideration. It is also notable that the appellant filed 56 Second Appeals in 2020, of which, just two cases have been filed in the general category. Also, notable is the fact that of the 91 Second Appeals filed by him in 2021, only four cases are in the general category. To process an RTI application within 48 hours, any public authority would have to divert substantial manpower and resources, thus affecting its regular functioning. It is therefore no happenstance that superior Courts have time and again underscored the fact that invoking the proviso to Section 7(1) can only be an exception and not the rule. **The appellant's claim that his RTI applications seek information that concerns his life or liberty, is hereby, rejected.**

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23. It is also appropriate to mention that the appellant is a lawyer, a profession that is the backbone of the Country's judicial system. In the larger public interest, he is advised that in future, RTI applications filed under the Life and Liberty Clause must meet the benchmarks enumerated above.

24. Regarding the appellant's submission that the RTI Act, 2005 has no provision to revert Second Appeals back to the Public Information Officer or the First Appellate Authority, the Commission is of the view that justice can only be served, if the concerned public authority, with its limited resources, is granted the opportunity to act as per the provisions of the RTI Act. This will also serve the appellant in getting the requested information as per the provisions of the Act.

25. While taking note that the appellant is an advocate and RTI activist who is facing FIRs, the Commission is of the considered view that no blanket privilege can be extended to any person, whereby he or she can demand information from any public authority in the State under the Life and Liberty Clause of the RTI Act, 2005. As the information sought in all the titled cases of the appellant does not qualify an information concerning the Life or Liberty of the appellant, therefore, **all the titled cases under consideration here, are remanded back to the public authority concerned in the larger public interest. The concerned Public Information Officers, are herewith directed to take a decision on the RTI application(s) in the Titled cases as per the provisions of the RTI Act.** The appellant will thereafter be at liberty to file First Appeals and Second Appeals in cases he is not satisfied with the decision of the concerned Public Information Officer(s)/First Appellate Authority(s).

26. In addition, the appellant has also made the following submissions:

"the SSP and the junior officials has wrongly deposed before various commissions including Punjab human Rights Commission and Punjab Information Commission that the case of my security application is already being taken by Deputy Commissioner, District Ludhiana. They even filed a false affidavit in the Hon'ble Punjab and Haryana High Court regarding this matter. Whereas the fact is that the Deputy Commissioner, District Ludhiana along with his district committee sat for the first time on 3.8.2021 after a lapse of 27 months for a decision to be mandatorily taken within 48 hours. Though 23 days has passed now the decision of the district committee for my security is still awaited"

# **PUNJAB STATE INFORMATION COMMISSION**

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Although the issue regarding providing of security is not the subject matter of the titled cases, but as the mandate of the RTI Act, 2005 is 'Transparency and Accountability', the Commission considered the submission made by the appellant that "the RTI Activist must be protected". Therefore, the reference received from the appellant is being sent to the concerned Deputy Commissioner, Ludhiana and Commissioner of Police, Ludhiana for appropriate decision in accordance with the rules/instructions of the Government of Punjab at the earliest.

27. With these directions, the titled cases are disposed of and closed.

Dated: 30.9.2021

sd  
(Suresh Arora)  
Chief Information Commissioner,  
Punjab.