

Sh. Karan Singh, S/o Sh. Shyam Singh,  
# 79, High Land Society, Baltana, Zirakpur.

... Appellant

Versus

**Public Information Officer,**  
State Transport Commissioner,  
Sector-17, Chandigarh.

**First Appellate Authority,**  
State Transport Commissioner,  
Sector-17,  
Chandigarh.

...Respondent

**Appeal Case No. 1751 of 2018**

**Present:       None for the Appellant**  
**Sh.Payara Singh-PIO-STC   for the Respondent**

**ORDER:**

This order should be read in continuation to the earlier order.

At the hearing on 29.11.2019, the respondent PIO-STC, Punjab brought a reply in which they stated that the appellant had inspected the record on 05.09.2019. The appellant who was absent at the hearing turned up late and informed that he is yet to receive the information that he had detailed during the inspection.

The order of the Commission was in two parts. The first part of the order was regarding the logbooks, which had been settled as the appellant had inspected the record and the department was to send the detailed information to the appellant, which the department was directed to send within 10 days.

The second part of the order to the Transport Department was to proactively publish and upload the information available under its custody regarding monthly fuel expenses, kilometers, travelled of all the ministers of Punjab, in the format in which they are maintained by the public authority, subject to the proviso of the exemptions to be applicable to the vehicles used by the security wing as notified by the Govt. under section 24 of the RTI Act. The information was to be uploaded from 1st of January 2012 onwards to the present, with a provision to upgrade it every quarterly.

The department was ordered to provide a roadmap, which it failed to provide in the last two hearings. The Commission directed the State Transport Commissioner to ensure compliance of the order before the next date of hearing.

On the last date of hearing on **04.03.2020**, the respondent present informed that the complete information had been provided to the appellant and the appellant had acknowledged having received the information on 14.02.2020. The respondent submitted a copy of acknowledgement of the appellant. Regarding part-2 of the information, the respondent submitted a reply, which was taken on the file of the Commission for consideration.

The appellant was absent. The case was adjourned.

On the last date of hearing on **05.08.2020**, the respondent was present. The appellant was absent. The case was adjourned.

**Hearing dated 02.09.2020:**

The respondent PIO is present. The appellant is absent.

The hearing of today is to consider the reply of the PIO of the State Transport Department citing reasons for not implementing part B of this bench's order of 12.06.2019. Part A of the order was implemented earlier, and is no longer a matter of consideration of this bench.

It is prudent to reproduce that part B of the order, which traces the factual matrix of the issue at hand, and the order is reproduced as under-

"Furthermore, I have gone through the entire case and observed that there are far too many RTI queries seeking details of vehicle numbers, fuel consumption and kilometers travelled of various ministers. These cases are in perpetuity in the commission.

The entire saga of such cases takes my attention to section 4(2) of the RTI Act, which states: it shall be a constant endeavor of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo-motu to the public at regular intervals through various means including internet so that the public have minimum resort to the use of this act to obtain information.

Section 2 (f) that defines the meaning of information clearly describes logbooks as information and the above argument furthers takes me to Section 19 (8) (a) (iii) of the RTI Act, which empowers the Central Information Commission or State Information to require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including by publishing certain information of categories of information.

Under the powers vested in this section and for the sake of bringing transparency in the manner fuel expenses are incurred on official vehicles of Punjab ministers, I hereby direct the Transport Department to proactively publish and upload the information available under its custody regarding monthly fuel expenses, kilometers travelled of all ministers of Punjab in the format in which they are maintained by the public authority subject to the proviso of the exemptions available to the vehicles used by the security wing as notified by the Govt under section 24 of the RTI Act.

The information is to be uploaded from 1<sup>st</sup> of January 2012 onwards to the present, with a provision to upgrade it every quarterly. The department can take cue from PMO's website where the PMO has proactively disclosed expenditures incurred on the Prime minister's various visits."

In his latest communication dated 03.02.2020 the PIO in the office of the State Transport Commissioner, Punjab has endorsed a copy to the commission of the reply sent to the appellant. It encloses a copy of the opinion procured by the respondent from their law officer. It is also reproduced as under.

"So far as the information which pertains to the state security, integrity and intelligence matter's such type of information are exempted under sub section 4 of section 24 of the Right to Information Act, 2005 as well the Official secrets Act, 1923 to be provided to any persons.

*The following type of information would continue to be exempt and there would be no obligation, to give any citizen of India: -*

- i) Information disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interest of the State, relation with foreign state or lead to incitement of an offence,*
  - ii) Information the disclosure of which would cause a breach of privilege of Parliament or State Legislature,*
- OR**
- iii) Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other Officers subject of the conditions given in proviso to clause (i) of sub-section (1) of Section 8 of the RTI Act.*

*That it is further opined that, in view of the aforesaid facts and notification bearing no.2/27/05-1AR/191 which had been issued by Govt. of Punjab, Department of Information Technology (Administrative Reform Branch) on dated 23.02.2016 and endorsed by the office of the Director General of Police, Chandigarh vide letter No.12190-289 on dated 16.06.2006 (copy attached with main file), in said notification, it has been expressly provided that, "In exercise of the power conferred by Sub-section 4 of Section 24 of Right to Information Act, 2005 (Central Act No.22 of 2005) and all others powers enabling him in this behalf the Governor of Punjab is pleaded to notify that the said Act (i.e. RTI Act 2005) shall not apply to the following organizations under the Department of Home Affairs and justice namely:*

- a. Intelligence Wing*
- b. Armed Police Including Armed Battalion of PAP*
- c. Commando and IRB*
- d. Security Wing Etc.*

*That it has been made clear that in view of the aforesaid notification of the Govt. no disclosure of the information which are exempted can be given to citizen of India on the ground that, the persons/employee who were or are attached with Chief Minister, Ministers or Former Ministers & MLAs for the purpose of an escorting them and their protection & security as such any information or disclosure are specifically exempted and said category are falling under above said notification category no.D i.e. Security wing of the state, upon which the effects of RTI Act 2005 are specifically barred. Moreover, it is submitted here that no information whatsoever nature can be provided which relates to any place belonging to or used for the purpose of Government which is for the time being declared by the Government by notification to be a prohibited place, and in case an information written or otherwise has been provided the OR the disclosure of the same in contravention of aforesaid notification, RTI Act, 2005 & official secrets Act, 1923 will be likely to assist, directly or indirectly, an enemy OR can likely to affect the sovereignty and integrity of state, the security of the State, in such circumstances the disclosure of aforesaid information is barred as same would be useful to an enemy.*

*That it is further opined that, disclosure of abovementioned information which directly concerned with state security, integrity and sovereignty such type of information like: secret official code or pass word or any sketch, plan, model, article, note, document or information which is prohibited to be disclosed such type of information may also not be disclosed on public domain or uploaded on an internet, on the grounds that firstly, under RTI Act 2005 it has been provided that only the citizen of India can obtain the information subject to certain conditions, secondly the information which directly or indirectly concerned with the interest of security, sovereignty or integrity of the state such information should not be uploaded on public domain like internet, if in case such sensitive confidential information have been uploaded on public domain like internet then*

*in consequences thereof, disclosure of such sensitive information is likely to assist, directly or indirectly, an enemy or affect the sovereignty and integrity of the state as well as any body except citizen of India like foreigner, enemy and alien who are not entitled to obtain any information under RTI Act 2005, such person could easily access the above said information from the internet.*

*Hence, keeping in view of the aforesaid Govt notification, RTI Act 2005 & Official Secrets Act 1923 only such information can be disclosed or provided, which is exempt from disclosure or a part thereof is exempt from disclosure under section 8 or section 9 of the RTI Act but a part of which is not exempt, and such part can be severed in such a way that the severed part does not contain exempt information then, access to that part of the information /record may be provided to the appellant (only to the citizen of India) but subject to the all of the above said conditions, exceptions and proviso of the RTI Act, 2005 & Official Secret Act, 1923 and aforesaid Govt. Notifications.”*

I have gone through the reply of the PIO and the legal opinion of their law officer, which has been accepted by the respondent as an argument to escape the directions passed by the Commission.

It must be made very clear to the respondent that the very denial to implement the order is a contempt of the order of the Punjab State Information Commission since the commission had clearly asked for the order to implemented and not sought reasons whether this order can be implemented or not.

Further, the commission finds that the legal opinion is totally off the mark and does not even tangentially consider upon the spirit and provisions under which the commission has passed the directions. The order has been passed by the commission suo-moto by invoking the powers vested in Section 19/8 of the RTI Act to ensure the disclosures under section 4 of the Act to promote transparency and accountability in public life. The information by no stretch of imagination attracts exemptions as envisaged in section 8 & 9 of the Act. The law officer has needlessly dragged it into the discussion.

The vital issue is as to whether the information pertains to a public authority which has been taken out of the ambit of Act under section 24 or not? The fact is that the repository of information is the office is State Transport Commissioner, which is not a security or an intelligence agency and cannot escape the obligations set forth in the RTI Act. The said information clearly does not pertain to the record prepared, maintained and held by the Intelligence wing, Armed Police, Commando & IRB, Security Wing etc. under the Department of Home Affairs and Justice but that which is held by the Punjab Transport Department.

The logical corollary is that the legal opinion taken by the department is of no avail and is rejected accordingly. The appellant is directed to ensure the compliance of the directions passed earlier, else face the penal consequences.

Principal Secretary, Transport Department, Punjab and State Transport Commissioner are hereby directed to ensure the compliance of this order.

Announced s/d

The case is adjourned. To come up for compliance on **12.10.2020 at 11.00 AM.**

**Sd/-**

**Chandigarh**  
**Dated: 02.09.2020**

**(Khushwant Singh)**  
**State Information Commissioner**

CC to:Principal Secretary,  
Deptt.of Transport,Pb  
Chandigarh.

