

MINUTES OF THE SECOND MEETING OF FULL COMMISSION OF THE STATE INFORMATION COMMISSION PUNJAB HELD UNDER THE CHAIRMANSHIP OF CHIEF INFORMATION COMMISSIONER PUNJAB ON 06.11.2009 AT 12.30 P.M.

The following were present:-

1. Mrs. Rupan Deol Bajaj, SIC;
2. Sh. Surinder Singh, SIC;
3. Lt. Genl. (Retd.) P.K. Grover, SIC
4. Sh. R.K. Gupta, SIC;
5. Sh. P.P.S. Gill, SIC;
6. Sh. Kulbir Singh SIC;
7. Sh. D.S. Kahlon, SIC;
8. Sh. S.S. Grewal, Secretary, SICP.

Leave of absence was granted to SIC's, Sh. P.K.Verma and Mrs. Ravi Singh.

Before taking up the agenda items, the workload in the Commission and disposal of Complaint / Appeal cases was reviewed.

The Commission expressed satisfaction at the present rate of disposal of cases. However, to ensure uniformity in the reporting system, it was decided that the format on monthly progress devised by Lt. Gen. (Retd.) P.K. Grover would be adopted. Information regarding disposal / pending Appeal / Complaint cases shall be put up to CIC by the Deputy Registrar on the 7th or the next working day of each month. This format should also be circulated to all the SIC immediately, so that their respective staff maintains data / figures in that very format. In order to obliterate any delay, the Reader attached with each Bench shall be fully responsible for making the information available on time to the Deputy Registrar.

Thereafter, the agenda items were taken up seriatim:-

Item No.1 VOLUNTARY CODE OF ETHICS.

The draft of the Code of Ethics on the lines of the one adopted by the Central Information Commission was placed before the Commission in the last meeting and comments / amendments, if any, were invited from the SICs.

After considering the views of the Commissioners, it was decided that a Voluntary Code of Ethics, as per the details at **Annexure-1**, may be followed as a guiding code.

Item No.2 PUNJAB STATE INFORMATION COMMISSION (MANAGEMENT) REGULATIONS 2009

A draft proposal to formulate "Punjab State Information Commission (Management) Regulations," prepared on the lines of Central Information Commission (Management) Regulations, 2007 was circulated to all the SICs in September 2009, inviting their comments.

The matter was considered by the Commission and it was felt that there is an urgent need to adopt a set of Management Regulations, to formalize the processes and procedures of the Commission. The Hon'ble High Court, while disposing of the CWP No. 6272 of 2009, had also observed that the CIC may consider improving the processes and procedures being followed by the Commission.

After discussions, it was felt that the proposed draft warranted clause by clause deliberations for which purpose a sub-committee of the Commission under Chairmanship of CIC with the following SICs was constituted:-

1. Mrs. Rupan Deol Bajaj.
2. Sh. R.K. Gupta.
3. Er. Surinder Singh.
4. Lt. Genl. (Retd.) P.K. Grover.

This committee would, after clause by clause consideration of the draft Regulations and after taking into account the procedures and practices in Central and other State Commission, make recommendations to the Commission.

The draft of the proposed Punjab State Information Commission (Management) Regulations circulated to all the SICs in September, 2009 be also placed in public domain as per **Annexure-II** to these proceedings, for public comments, which may also be considered by the sub-committee, if received.

Item No.3 DRAFT RULES FOR DESTRUCTION OF RECORDS

The State Commission came into existence in 2005 and has since then disposed of more than 11000 Appeals / Complaints Cases. On an average about 400- 500 new cases are instituted every month and more or less an equal number of cases get disposed of. The judicial record of the decided cases is accumulating and there is an acute shortage of space to keep / preserve the record. Considering this, a proposal containing 'Draft Rules for Destruction of Records' was circulated to all the SICs, for their comments. Thereafter, keeping in view the comments / suggestions received from some of the SICs, a revised proposal was placed before the full Commission in its 2nd meeting.

The commission deliberated the various aspects of record keeping. It was felt that cases under RTI do not deal with issues, as for example, conferring ownership or proprietary rights on the parties, which may call for retention of record in perpetuity. In fact, the relief granted under the RTI Act is instantaneous and time lines have been provided in the Act for providing information / compliance with the orders of the Commission. Once 'information' has been provided or ordered to be declined by the Commission, the case record is of not much relevance, except in few cases where a Writ may have been preferred or where a penalty or compensation awarded is yet to be realized. It was also noted that original documents of Public Authorities are very rarely called by the Commission and are not filed with the record of the Appeal / Complaint cases, and even if filed, these are returnable to parties.

Considering all relevant facts and after examining the draft proposal, the Commission, in exercise of powers vested under Section 15 (4) of the RTI Act, 2005 approved and adopted 'The Punjab State Information Commission (Destruction of Judicial Record) Rules' as placed at **Annexure- III** of these proceedings. These Rules shall come into force with effect from 1st January 2010.

Item No.4 VOLUNTARY DISCLOSURE OF PROPERTY RETURNS

On consideration of the proposal contained in the agenda note, the Commission decided that CIC / SICs may voluntarily file property returns, annually, by 15th of January each year. Since no format is available with the Commission, it was decided that the format currently in vogue for filing of Annual Property Return by Members of All India Service may be adopted.

The annual property returns shall be in the custody of Secretary to the Commission. When filed, the property returns will fall within the definition of 'information' held by public authority and will be made available to general public, on seeking information under the provisions of RTI Act.

Item No.5 HARASSMENT OF INFORMATION SEEKERS

The agenda item regarding harassment of some Information Seekers along with connected references received from the RTI Users Association and others was considered at length.

The Commission expressed its serious concern at the reported instances of harassment of some information seekers. It was also noted with satisfaction that all instances of such harassment have been promptly taken up with the Chief Secretary / Government for providing due protection to such persons

The Commission firmly stands by all information seekers and is committed to support the citizens to freely exercise their fundamental right to know and access information from public authorities.

However, given the Commission's charter and domain of jurisdiction, it may not be appropriate to constitute any sub-committee to formulate any policy-proposal or draft legislation for this purpose. This would clearly fall within the domain of the State / Central governments. The attention of the State Government, therefore, may be drawn to these issues for suitable action.

Item No.6 ANNUAL REPORT OF THE COMMISSION FOR THE YEAR 2007 and 2008

The recommendations of the sub-committee on Annual Report consisting of Sh. P.K.Verma and Sh. PPS Gill, SICs, which held its meeting on 03.11.2009 were considered.

The Annual Reports for the year 2007 and 2008 be drawn up by the office and the draft should be placed before the Commission, after scrutiny by the said committee, at the earliest.

Item No.7 FOLLOW UP ACTION ON DECISIONS TAKEN ON ITEM NO.10 OF THE FIRST MEETING OF THE FULL COMMISSION HELD ON 21.07.2009

The follow up action on decisions taken in the first meeting of the Full Commission held on 21.07.2009 were noted by the Commission.

Item No.8 CENTRALLY SPONSORED SCHEME ON STRENGTHENING, CAPACITY BUILDING AND AWARENESS GENERATION FOR EFFECTIVE IMPLEMENTATION OF THE RTI ACT.

The recommendations of the sub-committee on Media and Public Awareness under the chairmanship of Sh. PPS Gill, SIC were noted. Two interactive programmes for propagation of the right to information – one in the Press Club, Chandigarh and the other involving Schools in Patiala - have since been conducted successfully. An interaction with the Heads of Departments of the State government was also organized at the Mahatma Gandhi State Institute of Administration.

Ld. CIC asked the SICs to take initiative in organizing similar seminars, workshops, lectures etc. in co-ordination with other civil, educational or administrative authorities or well known NGOs so that maximum publicity to RTI Act and its processes and procedures is given. The funds received from the government of India need to be utilized well before end of December, 2009, to avail the balance amount of 2.5 lacs during the current financial year. This money will not be available in the next year.

Miscellaneous

After the conclusion of agenda items, the Commission discussed establishment related issues .Ld. SICs were unanimous that the shortage of staff and space in the office of the Commission was adversely telling upon the output and disposal of work. Further, there was a very genuine need for upward revision of salaries of contractual and outsoared employees, to attract talent and to retain trained hands, as salary of Rs.5,000/- per month was too meager. Ld. CIC fully agreed with this expressed view point and mentioned that proposals of the Commission for creation of posts, revision of pay package and hiring of additional space have already been submitted to the Govt. and shall be vigorously pursued.

Meeting ended with a vote of thanks.

VOLUNTARY CODE OF ETHICS

(AS ADOPTED BY STATE INFORMATION COMMISSION, PUNJAB)

1. The behaviour and conduct of members of the State Commission must be such as to reaffirm the people's faith in the impartiality of the Commission. Accordingly, any act of Information Commissioner/s, whether in official or personal capacity, which erodes the credibility of this perception, has to be avoided.
2. An Information Commissioner should practice a degree of discretion in public dealing consistent with the dignity of his office.
3. An Information Commissioner shall not hear and decide a matter in which a member of his /her family or a close relation is party.
4. An Information Commissioner is expected to let his/her Decisions speak for themselves. He/she shall not give interview to the media on the subject of Decisions made.
5. An Information Commissioner shall not hear and decide a matter concerning a company in which he/she holds shares unless he/she has disclosed his/her interest and no objection to his/her hearing and deciding the matter is raised.
6. An Information Commissioner should not contest election to any office of a club, society or other association. Further he/she shall not hold such elective office except in an academic, research, social welfare or cultural institution.
7. An Information Commissioner shall not enter into public debate on political matters or undertake any activity which is of a political nature.
8. An Information Commissioner shall not engage directly or indirectly in trade or business, either by himself/herself or in association with any other person. (Publication activity in the nature of a hobby or writing of books, articles or contribution to art, literature, in print or electronic form, shall not be construed as a trade of business).

9. An Information Commissioner should not ask for or accept donations.
10. An Information Commissioner shall not accept valuable gifts or objectionable hospitality except from his / her family, close relations and friends
11. An Information Commissioner should not avail any financial benefit in the form of a perquisite or privilege attached to his/her office unless it is clearly available. Any doubt in this behalf must be got resolved and clarified through the Chief Information Commissioner, and if the matter concerns the Chief Information Commissioner through the full Information Commission.

The State Information Commission Punjab (Management) Regulations, 2009

In exercise of the powers conferred by section 15(4) of the Right to information Act, 2005 (Act 22 of 2005) and all other provisions in the Act enabling in this behalf, Punjab State Information Commission hereby makes the following Regulations for management of the affairs of the State Information Commission so as to enable it to function effectively.

Chapter-1: Short Title and Commencement:-

- (i) These Regulations may be called “the Punjab Information Commission (Management) Regulations, 2009.
- (ii) They shall come into force with effect from such date as the Chief information Commissioner may by order specify.
- (iii) Appeals and Complaints which have already been filed before the date of commencement of these Regulations and have been found in order and are already registered before this date will be proceeded with as before and shall not abate for any infirmity therein but these regulations will be applicable for any prospective action even in regard to such pending appeals and complaints.

2. Definitions:- In these Regulations unless the context otherwise requires -

- (a) “Act” means the Right to Information Act, 2005 (Act 22 of 2005);
- (b) “Appellant” includes a complainant.
- (c) “Commission” means the State Information Commission Punjab;
- (d) “Chief Information Commissioner” means the State Chief Information Commissioner appointed under the Act.
- (e) “SPIO”/”PIO” in case of the Punjab means an officer designated by a public authority under Section 5(1) of the Act and includes an Assistant SPIO/PIO so designated or notified under Section 5(2) of the Act and it also includes an Assistant SPIO/PIO so designated or notified under Section 5(2) of the Act and it also includes -

- (i) an officer to whom an application submitted under the Right to Information Act seeking certain information is transferred under Section 5(4) of the Act; and
 - (ii) any officer to whom the request for information from a applicant is submitted by the SPIO/PIO either for approval or for orders or for disposal; and
 - (iii) the Head of the public authority in case no SPIO/PIO is appointed or notified;
- (f) “Decision” includes an order, direction or determination of an issue.
- (g) “First Appellate Authority” means an authority so appointed or notified by the public authority under the Act and includes a head of the office or the head of the public authority if no first appellate authority is appointed or notified.
- (h) “Information Commissioner” means a State Information Commissioner appointed under the Act and a “Designated Commissioner” means a State Information Commissioner designated by the Chief Information Commissioner to deal with appeals or complaints assigned to him by a general or special order.
- A single Bench means a bench constituted by one designated Commissioner.
 - A Division Bench means two designated Commissioners sitting together to hear second Appeals/Complaints.
 - Full Bench means three or more designated Commissioners sitting together to hear second Appeals/Complaints.
- (i) “Prescribed” means prescribed by or under the Act or under the Rules or Regulations.
- (j) “Records” mean the aggregate of papers relating to an appeal or complaint including pleadings, rejoinders, comments, proceedings, documentary or oral evidence, decision, orders and all other documents

- filed with or annexed to an appeal or complaint or submitted subsequently in connection with such appeal or complaint.
- (k) “Registry” means the Registry of the Commission comprising the Registrar(s), Additional Registrar(s), Joint Registrar(s), Deputy Registrar(s) or Assistant Registrar(s), who may be appointed from time to time in the Commission.
 - (l) “Registrar” means the Registrar of the Commission and unless the context otherwise requires includes an Additional Registrar, a Joint Registrar, a Deputy Registrar or an Assistant Registrar.
 - (m) “Regulation” means Regulation framed herein;
 - (n) “Representative” means a person duly authorized by or on behalf of any of the parties to the proceedings or interveners and may include a Legal Practitioner.
 - (o) “Respondent” includes an intervener or a third party or a party impleaded by the Commission.
 - (p) “Rules” mean the Rules framed by the State Government under Section 27 of the Act; or by the competent authority under Section 28 of the Act.
 - (r) “Section” means section of the Act;
 - (s) Words and expressions used herein but not defined shall have the meaning assigned to them in the Act or in the Rules.

CHAPTER-II: Officers of the Commission and their functions

- 3. Appointment of Registrar:** - The Chief Information Commissioner may designate one or more of its officers in the Commission to function as Registrar(s) of the Commission. He may also designate other officers of the Commission to act as Additional Registrar(s), Joint Registrar(s), Deputy Registrar(s) or Assistant Registrar(s) and provide other staff that may be necessary to assist the Registrars in the performance of their duties and responsibilities.
- 4. Powers and functions of the Registrar:-**

- (i) The Registrar shall be the Chief Executive of the Commission on the judicial side. Any communication addressed to him will be deemed to be addressed to the Commission and the Commission will be represented by him in all judicial matters.
- (ii) The Registrar shall discharge his functions under the administrative control and superintendence of the Chief Information Commissioner.
- (iii) All records of the Commission shall be in the custody of the Registrar or person assigned this duty by him.
- (iv) The Official Seal of the Commission shall be kept in the custody of the Registrar or person assigned this duty by him.
- (v) Subject to any general or special directions of the Chief Information Commissioner, the Official Seal of the Commission shall be affixed to any order, summons or other process under the authority of the Registrar.
- (vi) The Official Seal of the Commission shall not be affixed to any certified copy issued by the Commission save under the authority of the Registrar.
- (vii) The office of the Registrar may receive all applications, Second Appeals / Complaints, counter statements, replies and other documents.
- (viii) The Registrar shall decide all questions arising out of the scrutiny of the appeals and complaints filed in the Registry before these are registered.
- (ix) The Registrar may require any application, appeal, counter statement, replies presented to the Commission to be amended in accordance with these Regulations and direct any formal amendment of such records.
- (x) The Registrar shall sign the notice for date of hearing fixed by respective Bench for communication to both the parties.
- (xi) The Designated Bench will decide questions relating to extension of time in respect of filing of counter statement, reply, rejoinder, etc.
- (xii) The Public Information Officer of the State Information Commission Punjab may, on payment of a fee prescribed for the purpose, grant leave to a party to the proceedings to inspect the record of the Commission under supervision and in presence of an officer of the Commission.
- (xiii) Copies of documents authenticated or certified shall be provided to the parties to the proceedings only under the authority of the Registrar.

- (xiv) The Registrar shall communicate the decisions, orders or directions of the Commission to the concerned person/persons, and all such communications signed or authenticated by the Registrar or under his authority shall be deemed to be the communication from the Commission.
- (xv) The Registrar shall be responsible for ensuring compliance of the orders, directions or decisions passed by the Commission and to take all necessary steps in this regard.
- (xvi) The Registrar shall ensure that decency, decorum and order is maintained during hearing of an appeal, complaint or any other proceedings maintained and shall take all necessary steps in this regard.
- (xviii) The Registrar shall exercise all such powers and discharge all such functions as are assigned to him by these Regulations or by the Chief Information Commissioner from time to time.
- (xix) The Registrar shall assist all Information Commissioners in discharge of their functions.
- (xx) The Registrar may with the approval of the Chief Information Commissioner delegate to a Joint Registrar, Deputy Registrar or Assistant Registrar any function required to be performed under these Regulations.
- (xxi) The Additional Registrar or Deputy Registrar or Assistant Registrar may be delegated the powers conferred on a Registrar with the approval of the Chief Information Commissioner and in such eventuality, they will exercise all the functions of the Registrar under his guidance.

Chapter III: Working Hours, sittings and vacations etc.

5. Subject to any order by the Chief Information Commission, the office of the Commission will be open on all working days from 9.00 AM to 5.00 PM with a lunch break of half an hour from 1.30 PM to 2.00 PM. Secretary of the Commission/Incharge of section shall ensure punctuality of the staff of the Commission.
6. The Commission may have summer vacation not exceeding 4 weeks during June-July and a winter vacation of two weeks during December - January, as notified by the Chief Information Commission. The office of the Commission

will, however, remain open during vacation except on gazetted holidays. The Chief Information Commissioner may make appropriate arrangements to deal with matters of urgent nature during vacations, by designating one or more Benches as Vacation Bench and State Information Commissioners may by turn constitute such Vacation Bench to hear Complaints / Appeals.

CHAPTER – IV: Registration, Abatement or Return of Appeal.

- 7. Appeal or complaint etc. to be in writing :-** Every appeal, complaint, application, statement, rejoinder, reply or any other document filed before the Commission shall be typed or printed or hand written neatly and legibly and the language used therein shall be formal and civilized and should not be in any way indecent or abusive. The appeal, complaint or an application shall be presented in at least two sets in a paper-book form

- 8. Contents of appeal or complaint:-**
 - (1) An appeal or a complaint to the Commission shall contain the following information, namely:-
 - (i) name, address and other particulars of the appellant or complainant, as the case may be;
 - (ii) name and address of the State Public Information Officer (SPIO) or the State Assistant Public Information Officer (SAPIO) or PIO against whom a complaint is made under Section 18 of the Act, and Second Appeal under section 19(2) of the Act the name and address of the First Appellate Authority before whom the first appeal was preferred under Section 19(1) of the Act.
 - (iii) particulars of the decision or order, if any, including its number and the date it was pronounced, against which the appeal is preferred;
 - (iv) brief facts leading to the appeal or the complaint;
 - (v) if the appeal or complaint is preferred against refusal or deemed refusal of the information, the particulars of the application, including number and date and name and address of the Central Public

Information Officer to whom the application was made and name and address of the First Appellate Authority before whom the appeal was filed;

- (vi) prayer or relief sought;
- (vii) grounds for the prayer or relief;
- (viii) verification by the appellant or the complainant, as the case may be; and
- (ix) any other information which may be deemed as necessary and helpful for the Commission to decide the appeal or complaint.

(2) The contents of the complaint shall be in the same form as prescribed for the appeal with such changes as may be deemed necessary or appropriate.

9. Documents to accompany appeal or complaint:-

Every appeal or complaint made to the Commission shall be accompanied by self attested copies/photo copies of the following documents, namely:-

- (i) The RTI application submitted before the SPIO/Assistant SPIO/PIO/APIO along with documentary proof as regards payment of fee under the RTI Act;
- (ii) The order, or decision or response, if any, from the SPIO/PIO to whom the application under the RTI Act was submitted.
- (iii) The First appeal submitted before the First Appellate Authority with documentary proof of filing the First Appeal.
- (iv) The Orders or decision or response, if any, from the First Appellate Authority against which the appeal or complaint is being preferred;
- (v) The documents relied upon and referred to in the appeal or complaint;
- (vi) A certificate stating that the matters under appeal or complaint have not been previously filed, or are pending, with any court or tribunal or with any other authority;
- (vii) An index of the documents referred to in the appeal or complaint; and
- (viii) A list of dates briefly indicating in chronological order the progress of the matter up to the date of filing the appeal or complaint to be placed at the top of all the documents filed.

10. Service of copies of Appeal/Complaint

Before submitting an appeal or complaint to the Commission, the appellant or the complainant shall cause a copy of the appeal or complaint, as the case may be, to be served on the SPIO/PIO and the Appellate Authorities and shall submit a proof of such service to the Commission.

Provided that if a complainant does not know the name, address and other particulars of the SPIO/PIO or of the First Appellate Authority and if he approaches the Commission under Section 18 of the Act, he shall cause a copy of his complaint petition to be served on the concerned Public Authority or the Head of the Office and proof of such service shall be annexed along with the complaint petition.

11. Presentation and scrutiny of appeal or complaint:-

- (i) The Registrar or an officer specially designated by CIC for this purpose shall receive any Second Appeal or Complaint petition addressed to the Commission and ensure that
 - (a) the appeal or the complaint, as the case may be, is submitted in prescribed format;
 - (b) that all its contents are duly verified by the appellant or the complainant, as the case may be;
 - (c) that the appeal or the complaint is in accordance with the Regulations.
- (ii) The Registrar or the officer designated for this purpose shall also ensure that the appeal or the complaint petition contains copies of all required documents such as
 - (a) RTI application
 - (b) Receipt of the RTI Application
 - (c) Proof in regard to payment of fee/cost, if any;
 - (d) Decision/reply etc. from the SPIO, if any;
 - (e) Appeal to the 1st Appellate Authority;
 - (f) Decision of the 1st Appellate Authority, if any.

- (iii) The Registrar/DR/Assistant Registrar/designated officer as the case may be, shall scrutinize every appeal/complaint received and will ensure —
 - (a) that the appeal or the complaint petition is duly verified and required number of copies are submitted;
 - (b) That all the documents annexed are duly paginated and attested by the appellant or the complainant.
 - (c) That the copies of the documents filed and submitted are clear, distinct and legible;
- (iv) That the Registrar/DR/Assistant Registrar/designated Officer will return any such appeal or the complaint if it does not meet the requirement or conform to the standard as set out above and permit its resubmission in proper form.
- (v) The Bench of the Commission constituted/consisting of “designated Commissioners may reject any such appeal or complaint petition —
 - (a) if it is time-barred; or
 - (b) if it is otherwise inadmissible; or
 - (c) if it is not in accordance with these Regulations.

Provided that no such appeal or complaint petition shall be rejected by Bench unless the concerned appellant or the complainant is given an opportunity of being heard.

The decision of Bench consisting of the “designated commissioner/s” in regard to the issue of maintainability of an appeal or a complaint shall be final.

- (vi) All appeals and Complaints not rejected or returned as above and found in order shall be registered and a specific number will be allocated.
- (vii) The Registrar or any other officer authorized by him shall endorse on every appeal or complaint the date on which it is presented.
- (viii) The appeals and complaints shall bear separate serial numbers so that they can be easily identified under separate heads.
- (ix) If any appeal or complaint is found to be defective and the defect noticed is formal in nature, the Registrar/DR/AR/ or designated officer as the case may be, may allow the appellant or complainant to rectify the same in his presence

or may allow two weeks time to rectify the defect. If the appeal or complaint has been received by post and found to be defective, the Registrar may communicate the defect(s) to the appellant or complainant and allow him four weeks time from the date of receipt of communication from the Registrar to rectify the defects.

- (x) If the appellant or complainant fails to rectify the defects within the time allowed in clause above, the appeal or complaint shall be deemed to have been withdrawn.
- (xi) An appeal or complaint which is not in order and is found to be defective or is not as per prescribed format is liable to be rejected.

Provided that the Registrar may, allow an appellant or complainant to file a fresh appeal or complaint in proper form.

12. Filing of Counter Statement by the State Public Information Officer or the First Appellate Authority:-

After receipt of a copy of the appeal or complaint, the State Public Information Officer or the First Appellate Authority or the Public Authority shall file counter statement along with documents, if any, pertaining to the case. A copy of the counter statement(s) so filed shall be served to the appellant or complainant by the SPIO, the First Appellate Authority or the Public Authority, as the case may be.

13. Posting of appeal or complaint before the Information Commissioner:-

- (i) An appeal or a complaint, or a class or categories of appeals or complaints, shall be heard either by a Single Bench consisting of one Designated Information Commissioner or a Division Bench of two Designated Information Commissioners, or a Full Bench of three or more Designated Information Commissioners, as decided by the Chief

- Information Commissioner by a special or general order issued for this purpose from time to time.
- (ii) An appeal or a Complaint or class or categories of appeals or complaints may be heard by a Bench either in person or through designated video conference facility. The proceedings of a Bench conducted through the video conference shall be valid.
 - (iii) Where in the course of the hearing of an appeal or complaint or other proceeding before a Single designated Information Commissioner, the Commissioner considers that the matter should be dealt with by a Division or Full Bench, he shall refer the matter to the Chief Information Commissioner who may thereupon constitute such a Bench for the hearing and disposal of the matter.
 - (iv) Similarly, where during the course of the hearing of a matter before a Division Bench, the Bench considers that the matter should be dealt with by a Full Bench, or where a Full Bench considers that a matter should be dealt with by a larger Bench, it shall refer the matter to the Chief Information Commissioner who may thereupon constitute such a Bench for the hearing and disposal of the matter.

14. Amendment or withdrawal of an Appeal or Complaint:

A Bench may in its discretion allow a prayer for any amendment or withdrawal of an appeal or complaint during the course of its hearing if such a prayer is made by the appellant or complainant on an application made in writing. However, no such prayer may be entertained by the Commission after the matter has been finally heard or a decision or order has been pronounced by the Commission.

15. Personal presence of the appellant or complainant:-

- (i) The appellant or the complainant, as the case may be, shall be informed of the date of hearing at least seven clear days before that Date except in cases involving life or liberty where a shorter notice may be given.

- (ii) The appellant or the complainant, as the case may be, may at his discretion be present in person or through his duly authorized representative at the time of hearing of the appeal or complaint by the Commission.
- (iii) Where the Commission is satisfied that circumstances exist due to which the appellant or the complainant is being prevented from attending the hearing of the Commission, the Commission may afford the appellant or the complainant, as the case may be, another opportunity of being heard before a final decision is taken or take any other appropriate action as it may deem fit.
- (iv) The appellant or the complainant, as the case may be, may seek the assistance of any authorized person while presenting his case before the Commission and the person representing him may not be a legal practitioner.
- (v) If an appellant or complainant at his discretion decides not to be present either personally or through his duly authorized representative during the hearing of an appeal or complaint before the Commission, the Commission may pronounce its decision or order in the matter *ex parte*,

16. Date of hearing to be notified: - The Commission shall notify the parties the date and place of hearing of the appeal or complaint in such manner as the Chief Information Commissioner may by general or special order direct.

17. Adjournment of Hearing: - The appellant or the complainant or any of the respondents may, for just and sufficient reasons, make an application for adjournment of the hearing. The Bench hearing the case may consider the said application and pass such orders as it deems fit.

18. Evidence before the Commission:

In deciding an appeal or a complaint, the Commission may:-

- (i) receive oral or written evidence on oath or on affidavit from concerned person or persons;
- (ii) peruse or inspect documents, public records or copies thereof;
- (iii) inquire through authorized officer further details or facts;
- (iv) examine or hear in person or receive evidence on affidavit from State Public Information Officer, State Assistant Public Information Officer or such Senior Officer who decided the first appeal or such person or persons against whom the complaint is made as the case may be; or
- (v) examine or hear or receive evidence on affidavit from a third party, or an intervener or any other person or persons, whose evidence is considered necessary or relevant.

19. Issue of summons

Summons to the parties or to the witnesses for appearance or for production of documents or records or things shall be issued by the Registrar/ DR/AR under the authority of the Commission, and it shall be in such form as may be prescribed by the Commission.

20. Conduct of an Inquiry

The Commission may through its Benches entrust a fact finding inquiry in connection with any appeal or complaint pending before it to the Registrar or any other officer for the purpose and the Registrar or such other officer while conducting the enquiry shall have all the necessary powers including power to —

- (i) summon and enforce attendance of persons;
- (ii) compel production of documents or things;
- (iii) administer oath and to take oral evidence or to receive affidavits or written evidence on solemn affirmation;
- (iv) inspect documents and require discovery of documents; and
- (v) requisition any public record or documents from any public authority.

21. Award of costs by the Commission:

A Bench of the Commission may impose any of the Penalties provided under the Act or award compensation to the parties as it deems fit having regard to the facts and circumstances of the case.

22. Communication of decisions and Orders:-

- (i) Every decision or order of the Commission or any of its Benches shall be signed and dated by the Commissioner or Commissioners who have heard the appeal or the complaint or have decided the matter.
- (ii) Every decision/order of the Commission may either be pronounced in one of the sittings of the Commission, or may be placed on its web site, or may be communicated to the parties under authentication by the Registrar or any other officer authorized by the Commission in this regard.
- (iii) Every such decision or order, whenever pronounced by a designated Single Information Commissioner or by a Division Bench or by a Full Bench of three or more Information Commissioners, shall be deemed to be the decision or order by the Commission under the Act.

23. Abatement of an Appeal/Complaint:

The proceedings pending before the Commission shall abate on the death of the appellant or complainant.

CHAPTER-V: MISCELLANEOUS

24. Seal and Emblem:- The Official Seal and Emblem of the Commission shall be such as the Commission may specify.

25. Language of the Commission:-

- (i) An appeal or a complaint may be filed in Punjabi/Hindi/English language.
- (ii) The proceedings of the Commission may be conducted in Punjabi or in Hindi or in English.

The Punjab State Information Commission (Destruction of Judicial Records) Rules 2010

In exercise of the powers conferred by Section 15 (4) of the Right To Information Act, 2005 (22 of 2005) and all other provisions in the Act enabling in this behalf, the Punjab State Information Commission hereby makes the following rules to regulate the destruction of judicial records of case-files and papers of Complaints and Appeals decided by all Benches of the State Information Commissioners, Punjab so as to enable it to regulate the maintenance and destruction of such record.

1. Short title and commencement – (1) These rules may be called Punjab State Information Commission Punjab (Destruction of Judicial Records) Rules, 2010.

(2) They shall come into force with effect from 1st January 2010.

2. Definitions - In these rules, unless the context otherwise requires,-

(a) “Supervising Officer” means an officer (s) appointed as Supervising Officer by Registrar / Deputy Registrar of the Commission, with the approval of Chief Information Commissioner, State Information Commission, Punjab.

(b) “Judicial Record” means record pertaining to Complaints or 2nd Appeals filed before the State Information Commission under Section 18 and Section 19 respectively, including all documents, papers, affidavits, reports, replies, rejoinders, submitted or produced or taken on record of the case-file in such Complaint or Appeal cases, as the case may be, and includes any interlocutory or final orders passed in such Complaint and Appeal cases and any registers maintained with regard to Complaint / Appeal Cases.

3. Records when treated as having reached completion.

(a) The Judicial record in a case shall be treated as having reached completion on passing of a final order by a Bench of the State Information Commission and its subsequent compliance by the concerned parties or in the event of a Civil Writ Petition having been preferred against the decision of Bench of the Commission in the High Court of Punjab & Haryana / Supreme Court of India, on the date of compliance of final order of the High Court of Punjab & Haryana / Supreme Court of India, as the case may be.

(b) In the case of registers and other papers in the Judicial Branch, the date of completion shall be the date on which the registers were closed and in the case of files and other papers, the date on which the final order was passed thereon.

4. Preparation of index and separation of Parts. – All judicial record, on having reached completion, shall be consigned to record section / record room of the Commission under the charge of Registrar / Deputy-Registrar, latest by 30th December of each year, against a proper receipt.

After receipt of a judicial record in the record section / room, a fresh index will be prepared. All papers will be numbered and entered in the index under the appropriate part to which it belongs, after segregating records into three parts as detailed in Regulation 9 of these Regulations.

5. Records when to be taken up for destruction. - All records, registers / case-files of the Complaints or Appeals filed before the State Information Commission under Section 18 or Section 19 of the Act shall be retained in the record room from the date of completion till the expiry of the period prescribed under these rules and

on expiry of such period these may be destroyed with the approval of the Registrar or Deputy Registrar, if so empowered by the Chief Information Commissioner.

Provided that Registrar of the Commission or the Deputy Registrar of the Commission, if so authorized by Chief Information Commissioner, on a reference from the concerned Commissioner, who decided the Complaint or Appeal, as the case may be, for reasons to be recorded in writing order that any particular paper or the record of any particular case be preserved beyond such period:

Provided further that original record, if filed by any PIO or Public Authority or officer of Government or produced by such officer shall not be destroyed, if not previously reclaimed, but shall invariably be returned to the Public Authority or PIO or the office from which these were produced, on such PIO or Public Authority or office approaching the State Information Commission suo moto or in response to notice under Rule 8 of these Rules.

6. **Supervision of destruction.** - The destruction of judicial records and related Registers may be carried out from time to time as may be necessary, under the overall superintendence of the Registrar / Deputy Registrar. However, Registrar or the Deputy Registrar, with the approval of the Chief Information Commissioner, may designate one or more senior officers of the Commission to supervise the actual destruction of record, on the spot.

7. **Manner of destruction of records.**- (i) The destruction of judicial records shall be effected in any of the following manner:- (a) tearing so as to render it unlikely that the documents so torn may be used again : (b) tearing and burning it : (c) destroying with the help of a Paper Shredding Machine. The mode of destruction shall be decided by the Registrar or Deputy Registrar.

(ii) The record, after the Supervising Officer/s has certified that the destruction has rendered such judicial record / register of no value, unless the same is burnt, shall be sold as waste under the orders of the Registrar / Deputy Registrar and proceeds of the sale shall be credited to the relevant receipt Head (0070 other Administrative Service other receipts.)

8. Notice before Destruction of records: - In January each year a notice specifying the judicial record which will be destroyed during the year will be displayed on the Notice Board in the office of the Commission and also displayed on the web-site of the Commission. Unless claimed within 30 days from the date of issuance of notice by the party entitled to claim any part of the Judicial record, destruction of the judicial record mentioned in the notice will ensue. Return of documents to parties will be made under the orders of the Registrar or of Deputy Registrar, if so empowered by the Chief Information Commissioner.

9. Segregation of Records. - Every judicial record of Second Appeal / Complaint under the Right to Information Act, on its consignment to record room / record section shall be segregated into three parts:

- Part- (i) The final order of a Bench of the Commission deciding Second Appeals / Complaints under Section 18 or Section 19 of the Act.
- Part- (ii) The record of Case of Second Appeals / Complaints in which an Appeal or Civil Writ Petition is pending in any court of law.
- Part – (iii) The record of Complaint or Appeal Cases where a penalty or fine was imposed or compensation was awarded by a Bench of the Commission or in which disciplinary action had been recommended.

10. Period for retention of Parts 1, 2 and 3 of the judicial Record.- All judicial record having reached completion and on consignment to record room / record section under Regulation 4 of these Regulations, except the record as listed in the three parts below, shall be preserved for a period of at least five years, where after it may be destroyed as per the procedure laid down in these Regulations.

Part-I of the Judicial Record shall be preserved for 5 years in original form and electronically on the web-site of the Commission for at least 15 years.

Part-II of the Judicial Record shall be destroyed only after the final decision of appeal or CWP in High Court or Supreme Court, as the case may be and its compliance.

Part –III of the judicial record where a penalty was imposed under Section 20 of the Act or compensation was awarded under Section 19 (8) (b) of the Act, shall not be destroyed till such time as the penalty or compensation or fine has been realized or disciplinary action under service rules initiated under Section 20 (2) has attained finality.

Notwithstanding anything contained herein, no judicial record shall be destroyed, even though the period of preservation under these Rules may have expired, unless the annual report of the Commission relating to the year to which the record pertains has been placed on the floor of Vidhan Sabha Punjab, as required under Section 25 (4) of the Right to Information Act.

11. Note of destruction to be made in register, etc.- Letter “D” with date indicating that a case-file or record consisting of Part 1 or 2 or 3, as the case be, has been destroyed on that date may be made in red Ink in the index of the respective

case bundle as well as in the relevant column of the record registrar in which such paper or record is entered.

12. Non- Judicial Record / Registers: Administrative record, and Accounts Registers or any other papers and files maintained for administrative purposes are to be preserved and destroyed only as per provisions contained in the Punjab Financial Rules and instructions issued by State Government from time to time in this record.

13. Notwithstanding anything contained herein so long as an objection is outstanding and the Accounts have not been completely checked and accepted in Audit, these and the supporting documents should not be destroyed even though the period of preservation in the rules may have expired.

14. The period of retention in the record room for any Judicial Record, Judicial / Administrative Registers and papers not specified in these rules shall be decided by the Registrar / Deputy Registrar with the approval of the Chief Information Commissioner