

PUNJAB STATE INFORMATION COMMISSION
Red Cross Building, Near Rose Garden,
Sector 16, Chandigarh.
Ph: 0172-2864117, Email: - psic27@punjabmail.gov.in
Visit us: - www.infocommpunjab.com



Sh Manjit Singh,(M:7696282813)
S/o Sh Sohan Singh,
House No.388/3, Dhandholian Road,
Patiala

.....Complainant

Vs

Public Information Officer,
O/o General Manager,
Verka Milk Plant,
Jalandhar

.....Respondent

COMPLAINT CASE NO. 279/2019, 280/2019, 281/2019

Present: (i) Sh. Manjit Singh the complainant
(ii) Sh., Vishal Sharma Advocate on behalf of the respondent

ORDER

In the above mentioned complaint cases, the Complainant and the respondent are the same and a common question of law is involved. Therefore, aforementioned complaints shall be disposed of by a single order.

2. The Commission had made following observations on 06.11.2019:-

The complainant is absent. The respondent stated that the Verka Milk Plant is not a public authority within the meaning of Section 2(h) of the RTI Act.

3. Today, the complainant files a written reply in which it has been contended that the activities of the respondents are monopolistic and public in nature. He further says that there is a lot of corruption and irregularity in its functions and therefore it is required to be transparent and accountable in terms of provisions of the RTI Act.

4. Sh. Vishal Sharma, Advocate is appearing on behalf of the respondent and has filed his reply mentioning therein that they are not a "Public Authority" within the meaning of Section 2(h) of the RTI Act as has been explained in detail in judgment passed by the Hon'ble Supreme Court of India in Civil Appeal No. 9017 of 2013 Thalappalam Ser. Coop. Bank Ltd., Vs State of Kerela and others. The Commission has

PUNJAB STATE INFORMATION COMMISSION
Red Cross Building, Near Rose Garden,
Sector 16, Chandigarh.
Ph: 0172-2864117, Email: - psic27@punjabmail.gov.in
Visit us: - www.infocommpunjab.com



COMPLAINT CASE NO. 279/2019, 280/2019, 281/2019

given its thoughtful consideration to the submissions made in Civil writ Petition No. 20904/2015 the respondents have challenged the order of the Commission in treating it as a "*Public Authority*". The Commission feels that it shall be prudent to wait for its decision.

5. The Complaints as such is kept ***sine die*** and shall be taken up as and when the matter is finalized by the Hon'ble Court of Punjab and Haryana.

Sd/-

(Khushwant Singh)
State Information Commissioner

sd/-

(Preety Chawla)
State Information Commissioner

Dated: 06.01.2020

CC: Sh. Khushwant Singh, SIC, State Information Commissioner, Punjab

PUNJAB STATE INFORMATION COMMISSION
Red Cross Building, Near Rose Garden,
Sector 16, Chandigarh.
Ph: 0172-2864117, Email: - psic27@punjabmail.gov.in
Visit us: - www.infocommpunjab.com



Sh Manjit Singh,(M:7696282813)
S/o Sh Sohan Singh,
House No.388/3, Dhandholian Road,
Patiala

.....Complainant

Vs

Public Information Officer,
O/o General Manager,
Verka Milk Plant,
Ludhiana

.....Respondent

COMPLAINT CASE NO. 284/2019, 282/2019, 283/2019

Present: (i) Sh. Manjit Singh the complainant
(ii) Sh., Vishal Sharma Advocate on behalf of the respondent

ORDER

In the above mentioned complaint cases, the Complainant and the respondent are the same and a common question of law is involved. Therefore, aforementioned complaints shall be disposed of by a single order.

2. The Commission had made following observations on 06.11.2019:-

The complainant is absent. The respondent stated that the Verka Milk Plant is not a public authority within the meaning of Section 2(h) of the RTI Act.

3. Today, the complainant files a written reply in which it has been contended that the activities of the respondents are monopolistic and public in nature. He further says that there is a lot of corruption and irregularity in its functions and therefore it is required to be transparent and accountable in terms of provisions of the RTI Act.

4. Sh. Vishal Sharma, Advocate is appearing on behalf of the respondent and has filed his reply mentioning therein that they are not a "Public Authority" within the meaning of Section 2(h) of the RTI Act as has been explained in detail in judgment passed by the Hon'ble Supreme Court of India in Civil Appeal No. 9017 of 2013 Thalappalam Ser. Coop. Bank Ltd., Vs State of Kerela and others. The Commission has

PUNJAB STATE INFORMATION COMMISSION
Red Cross Building, Near Rose Garden,
Sector 16, Chandigarh.
Ph: 0172-2864117, Email: - psic27@punjabmail.gov.in
Visit us: - www.infocommpunjab.com



COMPLAINT CASE NO. 284/2019, 282/2019, 283/2019

given its thoughtful consideration to the submissions made in Civil writ Petition No. 20904/2015 the respondents have challenged the order of the Commission in treating it as a "*Public Authority*". The Commission feels that it shall be prudent to wait for its decision.

5. The Complaints as such is kept ***sine die*** and shall be taken up as and when the matter is finalized by the Hon'ble Court of Punjab and Haryana.

Sd/-

(Khushwant Singh)
State Information Commissioner

sd/-

(Preety Chawla)
State Information Commissioner

Dated: 06.01.2020

CC: Sh. Khushwant Singh, SIC, State Information Commissioner, Punjab

PUNJAB STATE INFORMATION COMMISSION
Red Cross Building, Near Rose Garden,
Sector 16, Chandigarh.

Ph: 0172-2864117, Email: - psic27@punjabmail.gov.in
Visit us: - www.infocommpunjab.com



Sh. Nathu Ram, s/o Sh. Mahavir Sihag,
R/o Village Taja Patti, Tehsil Abohar
District Fazilka

-----Appellant

Vs.

Registered post: **Public Information Officer,**
O/o District Social Security Officer
Fazilka

First Appellate Authority

o/o Deputy Director
Social Security Women & Child Development
Sector 34A, Chandigarh

Registered post: **Public Information Officer**
o/o CDPO, Abhohar-1, '
Distt. Fazilka

-----Respondent

Appeal Case No. 813 of 2018

ORDER

The judgment in this case was reserved on 06.11.2019

2. Though belatedly, the information sought under the Right to Information Act, 2005 by the appellant (applicant) vide application dated 11.12.2017 stands supplied to his satisfaction on 13.12.2018 during the pendency of present second appeal.

3. Now the appeal is pending consideration for enhancement of penalty for non-compliance of the order dated 13.12.2018 passed by Prof. Viney Kapoor Mehra, State Information Commissioner, whereby penalty of Rs. 10,000/- was imposed upon Sh. Mukesh Gautam, District Social Security Officer (DSSO), Fazilka, now DSSO Hoshiarpur; and also for consideration of the request for waiver of the penalty of Rs. 10,000/- imposed vide order dated 13.12.2019.

4. Prof. Viney Kapoor Mehra, State Information Commissioner, after imposing penalty of Rs. 10,000/- on Sh. Mukesh Gautam, DSSO Fazilka vide its order dated 13.12.2019 posted the matter for further hearing on 29.01.2019 to await compliance report.

PUNJAB STATE INFORMATION COMMISSION
Red Cross Building, Near Rose Garden,
Sector 16, Chandigarh.
Ph: 0172-2864117, Email: - psic27@punjabmail.gov.in
Visit us: - www.infocommpunjab.com



Appeal Case No. 813 of 2018

5. On 29.01.2019, Sh. Mukesh Gautam, DSSO appeared and stated that he was not aware of the penalty orders of the Commissioner as he stands transferred from Fazilka District to Hoshiarpur District on 02.07.2018. He further stated that dealing clerk has not informed him about the proceeding of the Court. However, in the order dated 29.01.2019 after recording that the RTI application is of dated 11.12.2017 and Sh. Mukesh Gautam, DSSO, Fazilka now DSSO Hoshiarpur has not attended any of the 6 hearings in the Commission; he was given last opportunity to comply with the order dated 13.12.2018. It is further recorded in the order that if the compliance report is not submitted before the next date of hearing i.e. 06.03.2019, penalty amount will be enhanced for the non compliance of the orders of the Commission.

6. On 06.03.2019 Prof. Viney Kapoor Mehra, State Information Commissioner, reserved the order, but the order was not pronounced as she resigned.

Therefore, presently two points arise for consideration in the case.

1. *Whether request of Sh. Mukesh Gautam, DSSO Fazilka (now DSSO Hoshiarpur) for waiver of the penalty of Rs. 10,000/- imposed vide order dated 13.12.2018 can be acceded to ?*
2. *Whether it is a fit case to impose further penalty?*

Point no. 1

The State Information Commission is creature of Right to Information Act, 2005, and derives its powers from the express provision of the Statue, State Information Commission has not been given any power to review or recall its order, and the powers which have not been expressly given by the Statue cannot be exercised. Therefore, the order dated 13.12.2018 imposing penalty of Rs. 10,000/- cannot be reviewed or recalled by this Commission, and the request of Sh. Mukesh Gautam, DSSO, Fazilka (now DSSO Hoshiarpur) for waiver of the penalty cannot be considered.

PUNJAB STATE INFORMATION COMMISSION
Red Cross Building, Near Rose Garden,
Sector 16, Chandigarh.
Ph: 0172-2864117, Email: - psic27@punjabmail.gov.in
Visit us: - www.infocommpunjab.com



Appeal Case No. 813 of 2018

Point no.2

So far as issue of imposing penalty upon Sh. Mukesh Gautam DSSO Fazilka (now DSSO Hoshiarpur) for non compliance of the orders of the Commission is concerned; in this regard it has come on record that, though belatedly, the information stands furnished to the applicant/appellant and he is satisfied with the information. In the facts and circumstances of the case, no useful purpose would be served by imposing further penalty.

The Deputy Director, Social Security Women and Child Development Department, Punjab shall ensure that the amount of penalty i.e. Rs. 10,000/- imposed upon Sh. Mukesh Gautam, DSSO Fazilka(now DSSO Hoshiarpur) vide order dated 13.12.2018 is recovered from the salary of Sh. Mukesh Gautam , DSSO, Fazilka (now DSSO Hoshiarpur) and is deposited in the Treasury under head:-

"0070-Other Administrative Services-

60-Other Services-

800-Other Receipts-

under the Right to Information Act, without any further delay, and compliance report in this regard be sent to the Commission.

7. To come up on **18.02.2020 at 1:00 PM** for confirmation and compliance. Copy of the order be sent to the parties.

Sd/-

(Khushwant Singh)
State Information Commissioner

Dated: 06.01.2020

Sd/-

(Preety Chawla)
State Information Commissioner

CC: Sh. Khushwant Singh, SIC, State Information Commissioner, Punjab