

# PUNJAB STATE INFORMATION COMMISSION

RED CROSS BUILDING, NEAR ROSE GARDEN,  
SECTOR 16, CHANDIGARH.

Ph: 0172-2864100, Email: - [psic26@punjabmail.gov.in](mailto:psic26@punjabmail.gov.in)  
Visit us: - [www.infocommpunjab.com](http://www.infocommpunjab.com)



## APPEAL CASE NO. 371 OF 2018

Sh. Vipin Kumar,  
S/o Sh. Jiwan Kumar,  
R/o Sherpur, Tehsil:Dhuri,  
Distt: Sangrur.

...Appellant

Versus

**Public Information Officer,**  
O/o District, Food Civil Supplies Controller,  
Sangrur.

**First Appellate Authority**  
O/o Director,  
Food Civil Supplies and Consumer Affairs,  
Punjab, Chandigarh.

...Respondents

### ORDER:

On 30.01.2019, judgement on the request of the Respondent for recalling the order dated: 13.12.2018, imposing a fine of Rs. 10,000/- was reserved.

2. The brief facts of the above case are that the appellant has sought the information in his RTI application as under: -

1) ਫਸਲੀ ਸੀਜਨ 2014-15, 2015-16 ਦੌਰਾਨ ਸੈਟਰ ਸ਼ੇਰਪੁਰ ਅਤੇ ਸੰਦੌੜ ਅਧੀਨ ਪੈਂਦੇ ਰਾਈਸ ਸੈਲਰ ਪਿੰਡ ਗੁਰਬਖਸ਼ਪੁਰਾ, ਬੜੀ, ਹੌੜੀਕੇ ਵਿੱਚ ਲੱਗੇ ਰਾਈਸ ਸੈਲਰਾਂ ਦੀ ਲੈਵੀ ਸਕਿਊਰਟੀ ਉਕਤ ਰਾਈਸ ਸੈਲਰਾਂ ਨੇ ਕਿਸ ਡਰਾਫਟ ਰਾਹੀਂ ਅਦਾ ਕੀਤੀ ਸੀ ਸਕਿਊਰਟੀ ਡਰਾਫਟਾਂ ਵ ਲੈਵੀ ਸਕਿਊਰਟੀ ਨਾਲ ਲੱਗੇ ਦਸਤਾਵੇਜ਼ਾਂ ਵ ਚਿੱਠੀ ਪੱਤਰਾਂ ਦੀ ਤਸਦੀਕ ਸੂਦਾ ਨਕਲ।

2) ਉਕਤ ਰਾਈਸ ਸੈਲਰਾਂ ਸੈਟਰ ਸ਼ੇਰਪੁਰ ਅਤੇ ਸੰਦੌੜ ਨੂੰ ਮਹਿਕਮੇ ਨੇ ਕਿਸ ਚੈਕ ਰਾਹੀਂ ਲੈਵੀ ਸਕਿਊਰਟੀ ਵਾਪਸ ਕੀਤੀ ਹੈ ਚੈਕ ਨੰਬਰ ਅਤੇ ਉਕਤ ਨਾਲ ਸੰਬੰਧਤ ਸਾਰੇ ਦਸਤਾਵੇਜ਼ਾ ਦੀਆਂ ਤਸਦੀਕ ਸੂਦਾ ਨਕਲਾਂ।

3. The Appellant filed an RTI application dated: 01.04.2017 addressed to PIO O/o District Food, Civil Supplies Controller, Sangrur and sought the information. On not receiving any response from the Respondent within 30 days as mandated under Section 7(1) of the RTI Act 2005, the appellant filed first appeal with the First Appellate Authority vide application dated: 06.07.2017 under the provisions of Section 19(1) of the RTI Act, 2005 and subsequently approached the Commission in Second Appeal under Section 19(3) of the RTI Act 2005, which was received in the Commission on 16.01.2018 and accordingly, a notice of hearing was issued to the parties for 25.04.2018.

Cont...P-2

# PUNJAB STATE INFORMATION COMMISSION

RED CROSS BUILDING, NEAR ROSE GARDEN,  
SECTOR 16, CHANDIGARH.

Ph: 0172-2864100, Email: - [psic26@punjabmail.gov.in](mailto:psic26@punjabmail.gov.in)  
Visit us: - [www.infocommpunjab.com](http://www.infocommpunjab.com)



## APPEAL CASE No. 371 OF 2018

4. During the hearing dated: 25.04.2018, the Respondent has brought the information for the perusal of the Commission and the same has been handed over to the appellant, during the hearing. After going through the information, the appellant stated that incomplete information has been provided to him. During the hearing dated: 26.06.2018, the Respondent stated that the appellant has sought the voluminous information and the appellant had advised to inspect the record and get the information. Due to it, the Show Cause Notice was issued to Sh. Jaspreet Singh Kahlon, PIO –cum-DFSC, O/o District Food & Supply Controller, Sangrur. But after the two consecutively hearings dated: 15.11.2018 and 13.12.2018 the Respondent – PIO had not submitted the reply in response to the Show Cause Notice, therefore penalty of Rs. 10,000/- has been imposed upon him for non-compliance the orders of the Commission, after the lapse of 19 months period.

5. During the hearing dated: 30.01.2019, Sh. Arihant Jain, Legal Assistant O/o DFSC, Sangrur appeared on behalf of the Respondent – PIO and stated that after searching the record, the information has been supplied to the appellant vide letter dated 08.12.2018 by registered post. He further filed a reply in response to the Show Cause Notice and Affidavit in this regard and requested that remit the penalty imposed by Hon'ble Commission vide order dated: 13.12.2018, which has been taken on record.

6. Sh. Jaspreet Singh Kahlon who was not PIO at the time of filing RTI application, has filed a reply in the Commission vide letter dated: 22.01.2019, praying for the recall of the order dated 13.12.2018, imposing the penalty of Rs. 10,000/- upon him and has intimated/prayed which is reproduced as under:-

*“Representation by Jaspreet Singh Kahlon, District Controller Food Civil Supplies and Consumer Affairs Sangrur District Sangrur, Punjab to remit the penalty imposed by Hon'ble Commission.*

1. *That the aforesaid appeal is pending before this Commission and now the same is fixed for hearing on 30.01.2019.*

2. *That the Hon'ble Commissioner passed the order dated 13.12.2018 vide which penalty is imposed upon the undersigned. The said order is reproduce as under “I, therefore impose necessary penalty of Rs. 10,000/- (Rupees Ten Thousand) from the date of RTI application upon Sh. Jaspreet Singh, DFSC, Sangrur having failed to perform his mandated duty and to submit any reply to the show cause notice issued to him. The amount of penalty i.e. Rs. 10,000/- should be deducted from his salary and be deposited in the treasury under head 0070 - Other Administrative Services-60 -Other Services-800-Other Receipts-86-Fees under the Right to Information Act, 2005.*

# PUNJAB STATE INFORMATION COMMISSION

RED CROSS BUILDING, NEAR ROSE GARDEN,  
SECTOR 16, CHANDIGARH.

Ph: 0172-2864100, Email: - [psic26@punjabmail.gov.in](mailto:psic26@punjabmail.gov.in)  
Visit us: - [www.infocommpunjab.com](http://www.infocommpunjab.com)



## APPEAL CASE No. 371 OF 2018

*The Director, Food Civil Supplies and Consumer Affairs, Punjab Chandigarh shall ensure that this amount of penalty is deducted from the salary of the above said defaulting official and deposited in the Treasury under the relevant head and he is warned to be very careful in future while dealing with RTI applications/appeal cases, any instructions/directions given by the Commission”.*

3. *That the appellant submitted his RTI application on 01.04.2017 i.e. much before the posting of the undersigned as the undersigned took the charge of District Sangrur on 26.03.2018. That the above said RTI application came to my notice through head office letter no. R.P.1 CH(RTI-234)-18/1527 date 01.06.2018 and every effort was sent by the undersigned vide memo no. A-18-2018/8778, Dated 10.08.2018 and vide letter no. A-18-2018/16678 dated 06.12.2018.*

4. *That the undersigned made every best efforts to perform his duty and hold full regard for the orders issued by the Commission and the deponent holds this Hon'ble Commission in highest esteem and cannot even think to violate/disobey or flout any order or direction of this Hon'ble Commission or any other Court of Law. However any order or direction of this Hon'ble Commission if may not have been understood in its true perspective, the deponent tenders an unconditional and unqualified apology for the same and is ready to take corrective steps as per the directions of this Hon'ble Court.*

*It is therefore respectfully prayed that the order dated 13.12.2018 may kindly be vacated and the penalty imposed may kindly be remitted.*  
Dated: -22.01.2019

Sd/-

Jaspreet Singh Kahlon  
District Controller,  
Food Civil Supplies and Consumer Affairs, Sangrur.

7. I have carefully considered the submissions made by the Respondent - PIO Sh. Jaspreet Singh Kahlon. The first question to be addressed is whether the Bench can review/recall its earlier order dated: 13.12.2018, imposing a penalty of Rs. 10,000/- upon the Respondent?

8. The Right to Information Act, 2005 does not contain any provision conferring the power of review on the Commission in relation to the orders passed by it on the judicial side. It is trite law that power of review can be exercised by a statutory authority only if it has been expressly conferred by the statute concerned. In the absence of an express power, a statutory authority, cannot review its orders on merits. However, this principle is subject to certain exceptions. These exceptions are:-

- i. Where the order sought to be recalled has been passed without notice to the person affected or where his absence at the time of passing the order was not willful, but was occasioned by reasons beyond his control.
- ii. Where the order sought to be recalled has been passed on mis-presentation of facts by the opposite party.
- lii Where there are obvious clerical/typographical mistakes in the order.

Cont...P-4

# PUNJAB STATE INFORMATION COMMISSION

RED CROSS BUILDING, NEAR ROSE GARDEN,

SECTOR 16, CHANDIGARH.

Ph: 0172-2864100, Email: - [psic26@punjabmail.gov.in](mailto:psic26@punjabmail.gov.in)

Visit us: - [www.infocommpunjab.com](http://www.infocommpunjab.com)



## APPEAL CASE No. 371 OF 2018

9. In the instant case, I find that the Respondent – PIO Sh. Jaspreet Singh Kahlon was not the PIO at the time of filing of the RTI application by the appellant and remissness was more on the part of the predecessor and the subordinate staff, who did not bother to inform the PIO for delay in the RTI application of the appellant in time. He had joined the office approximately after a year on 26.03.2018 and after that he provided the complete information to the appellant. The record shows that the appellant had demanded the voluminous information, which shows that there was no intentional denial of the information. There was delay of about 19 months but considering the circumstances and facts of the case, the nature of the information asked and its volume, I do not consider it a delay without a reasonable cause. The Hon'ble Supreme Court of India in its judgment in **Central Board of Secondary Education Vs. Adityabandhupdaya and others** (Civil Appeal No. 6454/2011) has observed that the nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The SC has observe that the threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritizing 'information furnishing', at the cost of their normal and regular duties. (Para 37)

10. Section 20 of the RTI Act, 2005 provides as under:

(1) *Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:*

*Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:*

*Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.*

# **PUNJAB STATE INFORMATION COMMISSION**

**RED CROSS BUILDING, NEAR ROSE GARDEN,  
SECTOR 16, CHANDIGARH.**

**Ph: 0172-2864100, Email: - [psic26@punjabmail.gov.in](mailto:psic26@punjabmail.gov.in)  
Visit us: - [www.infocommpunjab.com](http://www.infocommpunjab.com)**



## **APPEAL CASE No. 371 OF 2018**

(2) *Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.*

11. Since notice was issued to Sh. Jaspreet Singh Kahlon to appear personally before the Commission and to explain his position before imposing penalty in this case. In view of the facts mentioned in the request of Sh. Jaspreet Singh Kahlon for the review/recall orders passed in the instant case falls within the Second exception as indicated in para 5 (i) above, because the appellant has misrepresented the facts of the case.

12. In view of the foregoing, I am of the view that penalty imposed in this case upon Sh. Jaspreet Singh Kahlon, PIO –cum- DFSC, O/o District Food & Supply Controller, Sangrur deserves to be recalled and therefore, I recall the order passed on 13.12.2018, imposing a penalty of Rs. 10,000/- upon him.

13. The perusal of the record reveals that in this case, the appellant has tried his best to get the information from the PIO who failed to provide the information to the appellant within stipulated period. He has been made to run from pillar to post for getting the information, which he could not get even after the notice was issued by the Commission in the Second Appeal. He has suffered unnecessary detriments/harassment in getting the information at the hands of the PIO.

14. I have also looked into all the facts and circumstances of the case. In my view this is a fit case, where award of compensation under Section 19 (8) (b) is also called for. I have no doubt in my mind that this state of affairs has also come about on account of the absence of adequate machinery for handling the RTI work in O/o PIO – cum- DFSC, O/o District Food & Supply Controller, Sangrur, is thus, responsible for the inadequate handling of the RTI request and in the instant case as well.

**PUNJAB STATE INFORMATION COMMISSION**

RED CROSS BUILDING, NEAR ROSE GARDEN,  
SECTOR 16, CHANDIGARH.

Ph: 0172-2864100, Email: - [psic26@punjabmail.gov.in](mailto:psic26@punjabmail.gov.in)  
Visit us: - [www.infocommpunjab.com](http://www.infocommpunjab.com)



**APPEAL CASE No. 371 OF 2018**

15. I, therefore, order that compensation of Rs. 4000/- (Rupees Four Thousand Only) be paid to the appellant for the detriments suffered by him.

16. This amount shall be payable from the funds of O/o PIO –cum- DFSC, O/o District Food & Supply Controller, Sangrur, by way of crossed Cheque/Demand Draft in the name of Sh. Vipin Kumar within one month.

17. The Respondent - PIO O/o PIO –cum- DFSC, O/o District Food & Supply Controller, Sangrur is also directed to send a copy of Cheque/Demand Draft to the Commission to establish the fact that order of the Commission has been complied with.

18. The matter to come up for further hearing now on **15.04.2019 at 11.00AM**.  
Copies of the order be sent to the parties.

Chandigarh  
07.03.2019

Sd/-  
(Prof. Viney Kapoor Mehra)  
State Information Commissioner

**Copy to Intimation & Necessary Action:**

**The Director,**  
Food Civil Supplies and Consumer Affairs, Punjab,  
Chandigarh.

**Sh. Jaspreet Singh Kahlon,**  
District Controller,  
Food Civil Supplies and Consumer Affairs,  
Sangrur.