

# PUNJAB STATE INFORMATION COMMISSION

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

Ph: 0172-2864111, Visit us @ [www.infocommpunjab.com](http://www.infocommpunjab.com),  
Email: [psic21@punjabmail.gov.in](mailto:psic21@punjabmail.gov.in)



## REGISTERED FINAL ORDER

**Jitendra Kumar Sood,**  
Block 1, Flat No. 114, Patrkar Vihar,  
Nayay Khand 1, Indrapuram,  
Ghaziabad, Uttar Pradesh – 201 014

Versus

**Public Information Officer,**  
o/o Municipal Council, Kharar,  
Mohali.

**Public Information Officer,**  
o/o Municipal Committee,  
Kharar, Mohali.

**First Appellate Authority,**  
o/o Additional Deputy Commissioner, Mohali.

### Appeal Case No. 3900 of 2019

*(To be read in continuity with earlier Orders on 19.12.19, 13.2.2020, 24.9.2020, 16.6.2021, 23.7.2021, 23.12.2022, 6.6.2022. and 5.7.2022)*

1. The RTI application is dated **6.6.19** vide which the appellant has sought information as under:

1. Request your good self to confirm whether your office had received request letter from CGEWHO regarding to provide completion certificate of housing project Mohali Phase 2 Kharar.
2. If yes, please provide the legible copy of the request letter.
3. Please provide the legible copy of the documents submitted by CGEWHO to obtain completion certificate.
4. Please mention the name and designation of the official(s) who visited the site for inspection of the project and also provide the legible copy of report submitted by them.
5. Please inform whether your office has issued any Occupancy Certificate to CGEWHO related with the above-mentioned project. If yes, then provide the legible copy of the same.

as enumerated in his RTI application. First Appeal was filed with the First Appellate Authority (FAA) on **23.8.19**, and Second Appeal was filed in the Commission on **18.10.19** under Section 19 of the Right to Information Act, 2005. The case was last heard on **5.7.2021**.

### **Facts:**

2. At the FIRST HEARING of this Appeal Case ON 19.12.2019, the SPIO, represented by Roshan Lal, Clerk, brought in a number of random files and offered to let the appellant inspect these. The appellant, J.K. Sood however pointed out that his request for information was very specific and that the SPIO ought to locate the documents sought and furnish certified copies. Accordingly, the respondent was directed to carefully examine the RTI application and supply the sought record by way of attested copies, with a copy to the Commission.

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3. At the SECOND HEARING on 13.2.2020, the SPIO, once again represented by Roshan Lal, Clerk, stated that the information had been sent to the appellant vide Letter No. 07 dated 10.2.2020. When the appellant pointed out that the information furnished was only partial, the SPIO's representative stated that the remaining record was "not available" with the Municipal Council Kharar. The respondent however, had no clue whether any steps had been initiated to trace / reconstruct the missing record. Noting that the respondent appeared to be reluctant to part with the requested information, the Commission directed the SPIO-cum-Executive Officer Municipal Council Kharar to appear at the next Hearing in person. Furthermore, a compensation of Rs. 10,000.00 was awarded to the appellant, who is a septuagenarian, disabled person, for the harassment a detriment caused to him.

4. Hearings of this Appeal Case had to be repeatedly adjourned in view of the Covid-19 restrictions and it was eventually taken up for its THIRD HEARING on 24.9.2020, whereon the Order was RESERVED. In the interim period, the SPIO submitted an affidavit dated 24.12.2020 stating that the "remaining information" was sent to the appellant by registered post on 22.6.2020. The SPIO also stated that the compensation ordered by the Commission in its Order of 13.2.2020, had also be paid to the appellant vide OBC Cheque No. 049878 dated 19.8.2020, which sent to him by registered post on 20.8.2020. The appellant however, persisted with the contention that his RTI application had still not been fully addressed.

5. Accordingly, vide the Commission's Order of 16.6.2021, the SPIO was issued a Show Cause Notice for causing willful delay / denial of the information sought by the appellant as far back as on 6.6.2019.

6. At the FOURTH HEARING on 23.7.2021, the SPIO-cum-EO Sh. Sangeet Kumar submitted a reply vide Letter No. 142 dated 22.7.2021 along with the requested information. On examination however, none of the documents were found attested. Accordingly, the SPIO was directed to submit all the requested information along with a pointwise reply by way of a duly notarized affidavit before 26.7.2021.

7. At the FIFTH HEARING on 23.12.2021, the SPIO-cum-EO Sh. Rajneesh Sood, who had complied with the Commission's Order of 23.7.2021, was further directed to submit a list of SPIO's since the filing of this RTI application on 6.6.2019. He complied vide Letter No. 287 dated 23.12.2021.

## **Decision:**

8. This RTI application was filed on 6.6.2019 and it appears that the SPIO-cum-EO, incumbent at the time, obstructed disclosure of the requested information to the appellant. In his reply to the Show Cause Notice issued by the Commission, the SPIO has submitted copies of two letters (No.130 dated 21.6.2019 and No. 158 dated 19.7.2019) whereby he contends that the appellant was duly informed that the information sought by him was voluminous and would supplied to him after he inspects the record in person at the office of the Municipal Council at Kharar. The appellant had however, rightly challenged the veracity of the aforesaid replies, neither of which were received by him.

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9. A Show Cause Notice was issued to Sh. Rajesh Kumar Sharma, who was incumbent as SPIO, on the date this RTI application was submitted MC Kharar, vide this Commission's Order of 6.6.2022. As per reply (affidavit) to said Show Cause Notice, received in this Commission vide Diary No. 14425 Dated 1.7.2022, Sh. Rajesh Kumar Sharma admits that he was SPIO-cum-EO, MC, Kharar from 23.8.2018 to 22.8.2019. It was during his tenure as SPIO that this RTI application was submitted to the SPIO-cum-EO, MC, Kharar. Sh. Rajesh Kumar Sharma, restates the earlier contention that a reply was sent to the appellant vide Letter No. 130 Dated 1.6.2019, stating that the information demanded by the appellant is voluminous in nature. He further states that a Letter No. 158 Dated 19.7.2019 was once again sent along with a copy of the earlier reply i.e. No. 130 Dated 1.6.2019. Sh. Rajesh Kumar Sharma, has submitted copies of the **Register of Letters Dispatched** as well as the **Register of Stamp**, wherein the aforesaid reply has been shown entered.

10. The Commission has already noted that the appellant had challenged veracity of aforesaid replies neither of which received by him. Furthermore, the aforesaid registers does not constitute any conclusive proof that the aforesaid letters were in fact sent to the appellant, in the absence of any postal receipt or other proof of delivery.

11. In addition to the above, Sh. Rajesh Kumar Sharma's contention in the aforesaid letter that the requested information was "voluminous and could only be supplied to him after he inspects the record in person in the office of MC, Kharar", stands belied in view of the fact that Sh. Sangeet Kumar the SPIO-cum-EO who was incumbent during the Fourth Hearing of this Appeal Case on 23.7.2021, had in fact supplied the an affidavit and the requested information vide Letter No. 142 Dated 22.7.2021, which was neither voluminous and nor did it require any inspection of the record by the appellant.

12. Keeping the facts of the case in mind, the Commission deems it fit to impose a penalty upon Sh. Rajesh Kumar Sharma, who was incumbent SPIO-cum-EO, Municipal Council Kharar on 6.6.2019 when this RTI application was submitted. Sh. Rajesh Kumar Sharma, remained incumbent until 22.8.2019. Discounting the 30 days, allowed to an SPIO to address an RTI application, Sh. Rajesh Kumar Sharma is responsible for a delay of 47 days till the date he was the incumbent PIO. Further discounting the time it would have taken this RTI application (sent by registered post by the appellant) to reach Municipal Council Kharar, it is this Commission's view that Sh. Rajesh Kumar Sharma was responsible for a minimum delay of 44 days and is therefore as per Section 20(1) of the RTI Act, 2005, liable to pay a penalty of Rs. 11000.00

**Order:** Keeping all the facts of the case in mind, this is a fit case to invoke Section 20 of RTI Act and impose a penalty on the respondent PIO Section 20(1), which reads as under:

*"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 250/- 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;*

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*Provided that the Central Public 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 Information Officer, as the case may be."*

The onus and responsibility lie on the PIO to ensure the transmission of the complete information to the appellant. The **PIO-cum-EO, MC, Kharar, Sh. Rajesh Kumar Sharma**, is hereby held guilty for not providing the information on time as prescribed under Section 7, which is within 30 days of the receipt of the request and for repeated and willful defiance of the Punjab State Information Commission's orders.

A penalty of Rupees Eleven Thousand (Rs. 11000.00) is hereby imposed upon the **PIO-cum-EO, MC, Kharar, Sh. Rajesh Kumar Sharma**, which be deducted from his salary and deposited in the Punjab Government Treasury under head "0070-Other Administrative Services-60-other Services-800-Other Receipts-86-Fees Under the Right to Information Act." The **PIO-cum-EO, MC, Kharar, Sh. Rajesh Kumar Sharma**, is directed to duly inform the Commission of the compliance of the orders by producing a copy of the challan. Copies of this order be sent to the parties through registered post.

14. This Appeal Case is accordingly **Disposed of**.

Sd/-  
(ASIT JOLLY)  
State Information Commissioner, Punjab.

Chandigarh  
21.12.2022

**Cc:** Additional Deputy Commissioner, Urban Development, Mohali, for information and further necessary action.