

PUNJAB STATE INFORMATION COMMISSION

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

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Whatsapp No. 62848-20189 Cisco Webex: 158 708 3455



Sh. Inderjit Singh
Village Pandhari Tehsil Zira,
Ferozepur

....Appellant

Vs

Public Information Officer
o/o Sub Divisional Magistrate,
Jagraon,
District Ludhiana

First Appellate Authority
o/o Sub Divisional Magistrate,
Jagraon,
District Ludhiana

....Respondents

Complaint Case No. 1278 of 2021
(Video Conference Proceedings)

Present:- Ms Gurmeet Kaur, Advocate on behalf of the complainant.
Ms Kamaljit Kaur, Public Information Officer 8146261503 on behalf of
the respondents.

ORDER

The RTI application is dated 16.9.2021 vide which the complainant has sought information as enumerated in his RTI application. Complaint was filed in the Commission on 12.11.2021 under Section 18 of the Right to Information Act, 2005 (hereinafter called RTI Act). Notice of hearing was issued to the parties for today.

2. The complainant has sought the following information:-

1. ਮਿਤੀ 01-01-2021 ਤੋਂ ਮਿਤੀ 15-09-2021 ਤੱਕ ਆਪ ਜੀ ਦੇ ਡਰਾਇਵਿੰਗ ਟੈਸਟ ਟਰੈਕ ਉੱਤੇ ਜਿੰਨੇ ਵੀ ਕਾਰਾਂ ਦੇ ਟੈਸਟ ਲਏ ਗਏ ਹਨ ਉਹਨਾਂ ਦੇ ਗਰਾਫ ਦੀਆਂ ਤਸਦੀਕਸ਼ੁਦਾ ਕਾਪੀਆਂ ਉਪਲਬਧ ਕਰਵਾਈਆਂ ਜਾਣ ਜੀ
2. ਮਿਤੀ 01-01-2021 ਤੋਂ ਮਿਤੀ 15-09-2021 ਤੱਕ ਲਰਨਿੰਗ ਲਾਇਸੰਸ ਟੈਸਟ ਦੀ (ਸਟਾਲ ਕੰਡਕਟ ਰਿਪੋਰਟ) ਮੁਹੱਈਆ ਕਰਵਾਈ ਜਾਵੇ ਜੀ ।

3. The respondent-Public Information Officer states that the reply was sent to the complainant vide No. 1580 dated 5.10.2021 regarding the sought information but the letter has been returned back in the office. He has also shown the original letter sent to the complainant. He further states that the letter has also been sent to the complainant through whatsapp.

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Complaint Case No. 1278 of 2021

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4. Hon'ble Supreme Court of India in its order rendered on 12.12.2011 in Civil Appeal Nos.10787 – 10788 of 2011 (arising out of SLP © No.32768-32769/2010) has held that while entertaining a complaint under Section 18 of the RTI Act, 2005, the Commissioners have no jurisdiction to pass an order providing for an access to the information. Since the complainant has approached the Commission under the provisions of Section 18 of the RTI Act, 2005, no directions for providing further information can be given by the Commission.

5. Keeping in view the above, the Commission observes that no further action is required to be taken in this case. Hence the case is disposed of and closed.

Dated:22.12.2021

sd
(Suresh Arora)
Chief Information Commissioner,
Punjab.

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Sh. Rohit Sabharwal , RTI Activist,
126, Model Gram, Ludhiana-141002

Appellant

Vs

Public Information Officer,
O/o Supdt. Animal Husbandry ,
Fisheries and Dairy Developemnt, PB,
Chandigarh.

First Appellate Authority
O/o Principal Secretary, Animal Husbandry ,
Fisheries and Dairy Developemnt, PB,
Chandigarh.

Respondents

Appeal Case No. 4252/2021
(Video Conference Proceedings)

Present:- Ms. Sukhjinder Kaur, Advocate on behalf of the appellant.
Sh. Manpreet Singh(SA) 8195997878 on behalf of the respondents.

ORDER

This order may be read with reference to the previous order dated 8.11.2021.

2. The appellant has sought the following information:-

“Kindly refer to the order pronounced by the Hon’ble High Court of Punjab & Haryana in CWP No. 20127-2018(O&M) and connected matters decided on dated 12.10.2018, copy of which is enclosed herewith for your kind reference. In these orers, the Hon’ble Court preferred the following orders, which read as follow:

“Under the circumstances, these petitions are disposed of with a direction that a Committee comprising the Chief Secretary, Punjab and Chairman of PSPCL shall look into the matter and take appropriate decision.

Learned State counsel ensures the court that recovery of pending dues shall not be effected and supply of electricity shall not be disconnected till the decision is taken by the concerned authorities.

Decision shall be taken within two months from today.

In case of any adverse decision petitioners shall be at liberty to seek redressal by availing appropriate remedy.”

Thus in this regard, in capacity of being a citizen of India within the meaning of Section 3 of the Right to Information Act, 2005, following information is being

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Appeal Case No. 4252 of 2021

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sought under The Right to Information Act, 2005.

1. Provide the certified copy of the decision taken by the Committee formed in compliance of the direction issued by the Hon'ble High Court in the aforesaid order.
2. Till date, in compliance of the aforesaid direction issued by the Hon'ble High Court Decision has not been taken, then provide the reasons for the same as available on the records of your Public Authority.
3. As per the record available in your public authority, provide the information showing the total number of the Committee members formed to decide the matter in compliance of the direction issued by the Hon'ble High Court in the aforesaid order.
4. Provide the information showing the Names & Designations of the Committee Members formed to decide the matter in compliance of the direction issued by the Hon'ble High Court in the aforesaid order.
5. Provide certified copy of complete information (falling within the meaning of Section 2(f) read with Section 2(j) of the RTI Act, 2005 along with Notesheets generated in connection to the above said matter while taking action over the matter and as available on the records of your public authority."

3. The representative of the respondents states that the matter regarding the sought information is under consideration pertaining to Point No. 1 & 5 of the RTI application. He further states that after the finality of the case, the information will be supplied to the appellant. He has also shown the original file in which the matter regarding the sought information is being dealt with. Regarding Point No. 2, the representative of the respondents states that the appellant has sought the reasons, which are not covered under the provisions of the RTI Act, 2005. Regarding Point No.

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Appeal Case No. 4252 of 2021

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3 & 4 of the RTI application the representative of the respondents submitted the copy of the constitution of Sub Committee to discuss the orders of the Hon'ble High Court dated 12.10.2018 in CWP No. 20127 of 2018 and other connection matters, which is taken on record. Also a copy of the same is being sent to the appellant along with this order.

4. Keeping in view the above, the respondent-Public Information Officer is directed to supply the information pertaining to Point No. 1 & 5 of the RTI application after the finality of the case as has been assured during the hearing. With these directions, the case is disposed of and closed.

Dated: 22.12.2021

sd
(Suresh Arora)
Chief Information Commissioner,
Punjab.

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Sh. Vijay Pal Singh Advocate
Chamber No. 42 B
Distt. Court
District Amritsar

...Appellant

Vs

Public Information Officer
o/o Registrar General,
Punjab and Haryana High Court,
Chandigarh.

First Appellate Authority
o/o Registrar (Admn.)
Punjab and Haryana High Court,
Chandigarh.

...Respondents

Appeal Case No. 5118 of 2021

(Video Conference/Telephone Proceedings)

Present:- Sh. Vijay Pal Singh, Advocate
Sh. Charanjit, Sr. Asstt on behalf of the respondents.

ORDER

The RTI application is dated 19.1.2021 vide which the appellant has sought information as enumerated in his RTI application. First appeal was filed with the First Appellate Authority (hereinafter called FAA) on 11.3.2021 and second appeal was filed in the Commission on 10.11.2021 under Section 19 of the Right to Information Act, 2005 (hereinafter called RTI Act). Notice of hearing was issued to the parties for today.

2. The appellant has sought the following information:-

With respect to reservation in promotions of subordinate judicial officers in state of Punjab , according to statutory law provided in Punjab State Schedule Castes and Backward Classes (Reservations in Services) Act 2006 as amended up to date. [Details attached as annexure 'A' separate to this form]
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Appeal Case No. 5118 of 2021

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3. The respondent-Public Information Officer filed the reply, which is taken on record and the representative of the respondents also reiterated the same during the hearing.

4. The reply filed by the respondent-Public Information Officer is also reproduced below:-

1. That the appellant had sought information under the provisions of Right to Information Act, 2005 (hereinafter referred as 'the Act') vide his application dated 19.1.2021 received on 22.1.2021.
2. That in response to the above said application filed by the appellant, vide this office letter No.109/PIO/HC dated 8.2.2021, he was intimated that *no policy regarding reservation in promotion of Subordinate Judicial Officers in the State of Punjab according to statutory law has been received from the State of Punjab.*
3. That first appeal filed by the appellant before the First Appellate Authority of this Hon'ble Court was dismissed vide detailed speaking order dated 26.3.2021.
4. Attention of this Hon'ble Commission is drawn to the provisions of Section 2(f) of the Act, which is reproduced below:-

"Sec. 2 (f) - "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

Furthermore, reference can also be made to relevant Section 2(j) of the Act:-

"Sec. 2 (j) - "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to— (i) inspection of work, documents, records; (ii) taking notes, extracts or certified copies of documents or records; (iii) taking certified samples of material; (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other

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device;"

Thus, from the above legal position, it is clear that the Public Information Officer can only supply the information which is accessible to him or is held by or under the control of the concerned Public Authority. Therefore, the information cannot be said to be accessible to the undersigned or is held by or is under the control of this Hon'ble High Court in terms of the provisions of the RTI Act.

The Hon'ble Supreme Court in the matter of Central Board of Secondary Education & Anr Vs Aditya Bandopadhyay & Ors (Civil Appeal No.6454 of 2011) held as under:-

"At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or "advice' in the definition of (information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."

Further, the Hon'ble Supreme Court of India in 'Khanapuram Gandaiah Vs. Administrative Officer and Ors', Special Leave Petition (Civil) No.34868 OF 2009 (Decided on January 4, 2010) held as under:

"xxxxxxxxxxx

6....Under the RTI Act "information" is defined under Section 2(f) which provides: "information" means any material in any form, including records, documents, memos, emails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force." This definition shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law. Of course, under the RTI Act an applicant is entitled to get copy of the opinions, advices, circulars, orders, etc., but he cannot ask for any information as to why such opinions, advices, circulars, orders, etc. have been passed."

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7.....the Public Information Officer is not supposed to have any material which is not before him; or any information he could have obtained under law. Under Section 6 of the RTI Act, an applicant is entitled to get only such information which can be accessed by the "public authority" under any other law for the time being in force. The answers sought by the petitioner in the application could not have been with the public authority nor could he have had access to this information and Respondent No. 4 was not obliged to give any reasons as to why he had taken such a decision in the matter which was before him."

5. So far as the request of the appellant to direct the Public Information Officer of this Hon'ble Court to prepare roster/register in this regard is concerned, it is not tenable in the eyes of law as under the Act the duties of the PIO are to supply the information and not to maintain the data/registers of the Public Authority.
6. That since the policy in question is not received, no administrative reasons are available in terms of Section 4(3) & (4) of the Act.
7. Last para is prayer clause, which is also wrong, incorrect and hence denied.

5. Keeping in view the above, specific reply filed by the respondent-Public Information Officer regarding the sought information, the Commission is of the view that no further action is required to be taken in this case. Hence, the case is disposed of and closed.

Dated: 22.12.2021

sd
(Suresh Arora)
Chief Information Commissioner,
Punjab.