

MINUTES OF SEVENTH MEETING OF FULL COMMISSION OF STATE INFORMATION COMMISSION PUNJAB HELD ON 16.02.2011 AT 12.30 P.M. UNDER THE CHAIRMANSHIP OF SH. R.I.SINGH, CHIEF INFORMATION COMMISSIONER PUNJAB IN HIS OFFICE ROOM.

PRESENT:

1. Sh.Surinder Singh, State Information Commissioner;
2. Sh.Kulbir Singh, State Information Commissioner;
3. Sh.P.P.S.Gill, State Information Commissioner;
4. Mrs.Ravi Singh, State Information Commissioner;
5. Sh.Darbara Singh Kahlon, State Information Commissioner;
6. Mrs. Jaspal Kaur, State Information Commissioner;
7. Sh.S.S.Sandhu IAS, Secretary to the Commission.

Leave of absence was granted to Sh. P.K.Verma State Information Commissioner.

In attendance:

1. Sh. R.K.Arora, Manager Finance & Admn,
2. Sh. K.R. Gupta, Deputy Registrar.

The agenda items were discussed and the following decisions were taken:-

Item NO.1 Review of disposal of cases (01.01.2011 to 31.01.2011);

In January 2011, 347 cases were disposed against the fresh institution of 396. The number of old cases instituted prior to the year 2010 has come down to 12 from 18 and needs to be further reduced.

It was noted that recovery of Penalty / Compensation from PIOs/Departments delays final closure of decided cases. It was, therefore, decided to pursue the matter firmly with the Chief Secretary, so that suitable direction is given at the government level to all the Administrative Secretaries for initiation of disciplinary proceedings against such defaulters / departments.

Item No.2 Mechanism for hearing of complaints against Commissioners;

After detailed discussions, it was decided that so far as requests/ complaints for transfer of cases from one Bench to another Bench are concerned, irrespective of the grounds on which such request / complaint is made, the State Information Commission would adopt the procedure followed by the Central Information Commission in dealing with such complaints/ requests. In all such cases, Chief Information Commissioner may take a decision in consultation with the concerned Commissioner, keeping in view the broad guide-lines laid in the various judgments of the Constitutional courts, including the cases referred to in the Agenda Note, for transfer of cases from one Bench to another.

So far as complaints relating to conduct or behaviour are concerned (other than for transfer of cases from one Bench to another), the Commission resolved that a mechanism of a Collegium comprising CIC and the two senior most SICs may be constituted.

However, where any complaint is against any member of the Collegium, the concerned member shall not sit in the meeting of the Collegium to consider that particular complaint. The next senior most Commissioners shall be co-opted as a member of the Collegium for purposes of that particular meeting.

The functions of Collegium would be to consider all complaints received in the Commission directly or on reference from any other authority, including HE, the Governor and to suggest remedial steps or if the complaint is of a serious nature, to make recommendation to Hon'ble Governor for any appropriate action. The Collegium shall act as a recommendatory body and its proceedings shall be forwarded to HE Governor for such appropriate action as he may deem fit. The mechanism of the Collegium could also be used for consultation by H.E. Governor, Punjab, if he so chooses.

H.E. Governor Punjab may be appropriately apprised of this decision.

Item No.3 Renewal of agreement of Lease Deed of SCO.84-85, Sector 17C,

The Commission considered the recommendations of the Infrastructure Committee and decided that Agreement / lease deed in respect of SCO No. 84-85 Sector 17-C, Chandigarh dated 31.1.06 be extended for a further period of five years.

It was observed that the Punjab State Red Cross has commenced construction of an office block in its Premises in Sec-16, Chandigarh for renting it out to the State Commission and this building may be completed in the next two-three years, depending upon allocation of funds to Red Cross by the State government. Keeping in view this fact, a suitable clause for earlier termination of the lease period may be inserted in the agreement with the landlord, so that as and when the Red Cross building is constructed, the lease may be terminated. The other terms of the lease deed as mentioned in the proceedings of the meeting of Infra-Structure Committee held on 20.1.2011 were approved, including that the rent will be increased by 25% (twenty five percent) i.e. from the present rent of Rs. 91,163 P.M. to Rs. 1,13,954 P.M. for the two floors of SCO 84-85 Sector 17-C.

Further steps may be taken for signing / execution of the lease agreement.

Item No.4 Clarification regarding un-utilized funds of Rs.48,25,035/- as on 1.04.2010

The Commission considered the agenda note and the reference received from the State government regarding un-utilized funds as on 1.4.2010.

It was observed that the State Information Commission had always kept the Govt. fully informed about the finances available with the Commission and at no stage any facts were ever concealed from the AD. Under these circumstances, the language used in the letter of the AD under reference is regrettable.

The Commission further noted that since 2005, when the Commission was set up, the State Govt. had been according approval to the spending of the unutilized funds of the previous years and at no time the Commission deposited / returned unutilized grant, nor did the government ever ask for it. To illustrate, the Govt. had given approval vide letter No 8/1/2009-1AR/493, dated 14.10.2009 i.e. in the Financial year 2009-2010 for utilizing the amount of Rs.62,45,907/- which comprised the opening balance of Rs.10,10,287/0 as on 1.4.2008 and opening balance of Rs. 52,35,620 as on 1.4.2009.

The Commission does not have any other source of income, apart from the grant in aid from government. It cannot borrow from any other sources, on long/short term basis. The office is run only with the Annual grants, which are required to be released on time on quarterly basis. However, the past record shows that these quarterly releases are invariably delayed, for one or the other reasons. The Quarterly grants were released by the Government in the year 2010-2011, as follows:-

Quarter	Sanction No. and date	Date of release of Grant in Aid
1.04.10 to 30.06.2010	2/35/10-1AR/449, dated 28.04.2010	11.06.2010
1.07.10 to 30.09.2010	2/35/10-1AR/784-790, dated 2.08.2010	31.08.2010
1.10..10 to 30.12.2010	2/35/10-1AR/1228-31, dated 24.12.2010	05.01.2011

The above facts clearly indicate that the grants were received by the Commission after substantial part of the Quarter/s had already passed. In such a situation no statutory organization can run, unless some funds are carried forward from previous quarter / financial year. Otherwise, the statutory functioning of the Commission would come to a grinding halt.

The Commission further observed that due justification for carrying forward the funds was sent to government, including for hiring of an additional floor of the office building, which had been duly consented to by Chief Secretary, Punjab in meeting held on 16.8.2010, payment of post-retiral benefits to Sh. Rajan Kashyap, proposal for which was pending with the Govt.

for almost two years etc. It was expected that the above mentioned proposals would be cleared by the Govt. and these and other liabilities of the Commission would be appropriately met with from the carried forward funds.

The Commission observes that non-depositing of the unutilized funds on 31.3.2010, after due intimation to the AD, was very essential for the smooth functioning of the SIC, proper administration of RTI Act and in the best interest of all the Stakeholders. The Commission also noted that some other statutory organizations of the State, like Punjab Human Rights Commission are following a similar practice and there has never been any problem. It is the duty of the State Govt. to create congenial environment for functioning of its statutory organizations and that would not be possible without a very regular flow of funds.

Since various proposals submitted by the Commission over the last few year/s are still pending with the AD without any result, and as only a month and a half of the financial year is left, it may not be possible to utilize funds before 31st March, even if AD clears the pending proposals. The Commission, therefore, decided that Govt. may be apprised that amount of Rs.48, 25,035/-, which was the opening balance as on 1.4.2010, may be reduced from Rs.84, 25,000/- i.e. the amount due for the 4th Quarter of the Current year and the remaining amount of Rs.35, 99,965/- of this Quarter may be carried forward to the next financial year i.e. 2011-2012.

The Govt. may be conveyed in clear terms that funds for each Quarter henceforth must be provided on time; otherwise the responsibility for any impediment in the smooth functioning of the Statutory Commission would rest on the AD.

Item No.5 Status of Video Conferencing

The Commission noted that H.E., the Governor Pb has very kindly agreed to inaugurate the Video Conference facility in the first week of March.

The Commission noted provision 13(ii) of The State Information Commission, Punjab (Management) Regulation, 2010 which provides that, "An Appeal or a complaint or class or categories of Appeals or complaints may be heard by a Bench either in person or through video conference facility. The proceedings of a Bench conducted through the video conference shall be valid."

Hearing of cases of the three border districts, Amritsar, Gurdaspur and Ferozepur through Video Conferencing may, therefore, be notified, in consultation with NIC and District Magistrates concerned. Since no separate court room or staff has been sanctioned for Video Conference, the facility cannot be extended to the other parts of the State for the present. The Commission noted that its proposals for hiring of the top floor of the main office building and sanctioning of additional staff are pending with the government since long. Secretary may remind the AD for early action so that

the Commission is able to provide a dedicated room for Video facility and extend it to the other districts also.

As regards the Centrally Sponsored Scheme of Awareness Generation, the Commission noted that at present only an amount of Rs. 55 thousands was available. The proposals for holding seminars from the Deputy Commissioners were being received. It was expected that the available amount would be utilized shortly. Thereafter, U.Cs should be obtained without delay so that the remaining funds from Government of India could be sought within the current financial year.

Additional Item No.6

- i) After the Regular Agenda was finished, Mrs. Ravi Singh pointed out that the outsourced staff was not being paid salaries in time. MFA stated that there were two reasons for it; one was that most of the staff does not have their accounts in the same Bank Branch as that of the Service Provider. All of them have been advised many a times to have accounts in the same bank as that of the Service provider, if they want to avoid delay of 6-7 days. The second cause of delay was because the service provider did not provide the details of EPF, ESI contributions of the employees in time.

The Commission observed that the Service Provider must be firmly told to give the details of EPF, ESI contributions of the employees as per law in time. In case he does not mend, notice for termination of Agreement may be given. Compliance of EPF and ESI law must be ensured and certified by the MFA.

- ii) Mrs. Ravi Singh was informed that the proposal for creation of record room for the Commission can only be executed if the proposal for hiring additional space, at present pending with the AD, is cleared.
- iii) Mr. PPS Gill pointed out that the pay scales of the staff need to be increased, in view of the report of the 5th pay commission. The matter should be followed up by Secretary.
- iv) Sh. PPS Gill was apprised that the case of retention of the staff attached with SICs after their retirement/s was also being processed. Appropriate decision will be taken in due course.

The meeting ended with note of thanks to the chair.