

PUNJAB STATE INFORMATION COMMISSION
SCO No. 84-85, Sector 17-C, CHANDIGARH.

Sh. Tarlok Singh Chhabra
H.No.889, Sector- 60,
SAS Nagar (Mohali)

----- Complainant

Public Information Officer/ Asstt. Estates Officer,
Punjab Urban Development Authority,
SAS Nagar (Mohali).

----- Respondent

CC No.27/2006

ORDER

Present: Sh. Tarlok Singh Chhabra, Complainant in person and Sh. Gurbax Singh, Asstt. Estates Officer, on behalf of PIO, PUDA, Mohali.

The complainant has approached the Commission with a complaint under section 18 of the RTI Act, 2005 alleging failure on the part of the respondent to supply the information requested by him. He also states that that he had filed an appeal to the Appellate Authority as the PIO failed to supply information within the stipulated period of 30days. He alleges that no action on his appeal has been taken.

Commission had on receipt of the complaint, on February 9, 2006 sought the response of the Assistant Estates Officer, PUDA, Mohali. No response however, was received by the Commission and the case was posted for hearing for 24.04.2006.

At the time of hearing the representative of the Respondent has apprised the Commission that PUDA has not yet appointed an

Appellate Authority. The failure of PUDA to appoint an Appellate Authority is a serious matter. Quite clearly the provisions of the Act cannot be implemented by the Public Authority if the Appellate Authority is not in position. The Chief Administrator PUDA, is directed to explain why the appointment of Appellate Authority has not yet been made. This may be intimated to the Commission before the next date of hearing. The Appellate Authority be appointed immediately.

On the merits of the complaint, the Respondent submits that the information demanded could not be supplied as the Complainant had not paid the prescribed application fee of Rs.50/- as provided in the Rules framed by the Govt. of Punjab. The complainant states that he was not aware of the Rules of the Punjab Government at that time and that he had deposited an amount of Rs.10/- as per the Rules framed by the Govt. of India. In view of the fact that the rates of fees were not known to the common public at the time when the application was made in good faith, the complainant is exempted from paying the additional amount towards application fee. The applicant is, however, required to make payment towards the cost of the copies of relevant information demanded by him.

The respondent is directed to supply by post the information to the complainant within a week.

To come up for confirmation of compliance on the next date of hearing that is 12th May, 2006. Chief Administrator, PUDA, Mohali to also confirm in person or through a representative on that day that is 12th May, 2006 that Appellate Authority is in position.

Chandigarh
Dated: 24.04.2006

Chief Information Commissioner,
Punjab

PUNJAB STATE INFORMATION COMMISSION

SCO No. 84-85, Sector 17-C, CHANDIGARH.

Sh. Sham Kumar Kohli
85-D, Kitchlu Nagar,
Ludhiana.

----- Complainant

Vs.

Public Information Officer,
O/o Executive Officer,
Improvement Trust, Ludhiana.

----- Respondent

CC No.38 of 2006 ORDER

Present Sh. Sham Kumar Kohli Complainant in person and Mr. Jagbir Singh, superintendent, Improvement Trust on behalf of the Respondent.

The complainant states that he demanded the following information from the Public Information Officer:-

- i) Government instructions regarding transfer of certain specified plots;
- ii) A resolution of Improvement Trust, Ludhiana in regard to the transfer of the plots.
- iii) Copies of cash receipts etc relating to the plots in question.

The Complainant alleges that the respondent is deliberately avoiding to give the information. The respondent states before me today that he has no objection to supply the information as demanded. Complainant states that he is in poor health and requests for an early date.

The respondent is directed to supply the information as demanded by the complainant within the next 10 days. To come up for confirmation of compliance of orders on the next date of hearing that is 12th May, 2006.

Chandigarh
Dated : 24.04.2006

Chief Information Commissioner,
Punjab

PUNJAB STATE INFORMATION COMMISSION

SCO No. 84-85, Sector 17-C, CHANDIGARH.

Mr. Vidya Sagar,
S/o Sh. Kasturi Lal,
Lomsh Bhawan, 101-D,
Kitchlu Nagar, Ludhiana

----- Appellant

Vs

Public Information Officer,
Punjab Agricultural University,
Ludhiana.

-----Respondent

A.C. No.4 of 2006 ORDER

Present Mr. Vidya Sagar, Appellant in person and Mr.Narinder Pal Singh, Associate Professor-cum- Assistant Public Information Officer, Punjab Agricultural University, Ludhaiana. On behalf of Respondent.

The Appellant in this appeal impugns the order dated 14.02.2006 made by the Registrar PAU, Ludhiana as an Appellate Authority under the RTI Act, 2005. The operative portion of the order under appeal reads as under:-

“The record mentioned at serial No.1,3,4,6 to 10 and 29 are your own applications. The record at serial No. 5, 21, 30 & 32 has already been submitted in the Court. However, the photo-copies of the same are added here. Point No. 22, 23 and 26 pertaining the Dak Register, the original Dak Register cannot be supplied to you as the same are required in the University. Any entry from the same if needed by you can be supplied. The record mentioned at Sr. No. 2,12,16,20,24,25,27,28,33 and 34 are not available in the record of the University. However, if the same is traced out at any stage that will be supplied to you. The record as mentioned at Sr. No 11,13 to 15 has already been supplied to you. It is made clear to you, that

despite of not meeting the requirement of the Information Act regarding deposit of requisite fee, the above information is supplied to you as a special case”.

It is thus seen that the information which has been denied is on three counts that is:-

- (i) Applications are of the appellant himself,
- (ii) Record has been submitted in a Court,
- (iii) The record is not available in the University.

On hearing the parties I direct that the appellant be supplied copies of the applications as demanded since the appellant states that he has not retained copies thereof. The copies of the record submitted by the respondent in court be also supplied to the appellant by obtaining copies from the Court concerned or from the University's own record. In respect of service books, the appellant avers that these are in the custody of a Superintendent of PAU and alleges that the University is deliberately not showing this record to him.

I direct that the averment of the appellant be investigated by the Registrar personally from the concerned officer/ official in charge of the service books. It is directed that information relating to the service books be supplied to the appellant. It is however, made clear that the appellant shall be entitled to the information only on the payment of fees prescribed under the Rules.

Regarding the record which the University alleges is not traceable, I direct that the Registrar of the University would submit an affidavit on oath indicating precisely the record which is missing, when was the loss of the record detected, who was the custodian of the record and what steps have been taken by the University to trace the missing record, and what action if

any has been initiated against the person/s responsible for the loss of record.

During the course of arguments it transpired that there is some ambiguity regarding the number of documents demanded by the appellant. I direct that in case some documents demanded by the appellant are not included in the original request for information, he shall submit a fresh request naturally with the requisite fee for the additional documents. On such request for additional documents having been made, the respondent shall consider and decide the same on merits. In respect of information which is under appeal, the respondent shall take action as indicated above.

To come up for confirmation of compliance of today's orders on 15th June, 2006.

Chandigarh
Dated: 24.04.2006

Chief Information Commissioner,
Punjab.

PUNJAB STATE INFORMATION COMMISSION

SCO No. 84-85, Sector 17-C, CHANDIGARH.

Er . Vijay Kumar Sharma,
B-IX/34, Malkana Mohalla,
Kapurthala – 144 601 (Pb.)

-----Complainant

Vs

Public Information Officer/ Principal,
Hindu Kanya College,
Kapurthala.

----- Respondent

CC No.36 of 2006

ORDER

Present: Mr. Vijay Kumar Sharma, Complainant in person and Mr. Neeraj, Establishment Clerk, Hindu Kanya College, Kapurthala for the respondent.

In his application dated February 15, 2006 the complainant alleges that he had sought information regarding the retirement age of the Principal and Lecturers in the Hindu Kanya College and certain other incidental matters connected with the retirement/ extension in the age of retirement. It is also alleged that the request for information has been rejected by the Respondent on the plea that the Respondent institution is not within the purview of the Right to Information Act, 2005 it being a privately managed institution.

Today at the time of hearing also the Respondent has raised a preliminary objection that the RTI Act, 2005 does not apply to the College. The Respondent claims that the college is a private institution. This stand of the Respondent is without substance. It is clearly borne out from the record of the case that the Respondent institution is an aided college receiving

95% grant from the State of Punjab. It is thus a Public Authority as defined by section 2(h) of RTI Act, being directly funded by the appropriate Government.

Coming to the merits, it is seen that the information demanded relates to retirement/ extension of the age of retirement of the staff of the college I do not see any reason why this information should not be supplied. The Principal of the college is directed to ensure that the information demanded is supplied to the complainant within a period of fifteen days. To come up for confirmation of compliance of today's orders on 15th June, 2006. In case the information is not supplied, the Principal of the college shall appear in person on the next date of hearing that is 15th June, 2006 to explain the position of the Respondent in this behalf.

Chandigarh
Dated: 24.04.2006

Chief Information Commissioner,
Punjab

PUNJAB STATE INFORMATION COMMISSION
SCO No. 84-85, Sector 17-C, CHANDIGARH.

Dr. Balwant Singh,
116, Industrial Area A,
Ludhiana.

----- Complainant

Vs

Public Information Officer,
O/o Secretary, Department of Vigilance,
Govt. of Punjab, Chandigarh and another

----- Respondents

CC No.30 of 2005

ORDER

Present Dr. Balwant Singh, Complainant in person, Mr. Prithi Chand, Addl. Secretary Vigilance, Govt. of Punjab, Chandigarh. for Repondent No. 1 and Mr. Raminder Singh Clerk, Vigilance Bureau on behalf of Respondent No. 2 Vigilance Bureau, Chandigarh.

The Complainant submits that vide his letter dated 08.11.2005 addressed to Chief Secretary, Secretary, Home Department, Financial Commission (Development) and Director of Vigilance Bureau, Punjab, he had sought information on four points which are as below:-

- “a. *Report of Vigilance Bureau, Punjab in this regard – Mrs. Charu Tuli, Senior Deputy Advocate General Punjab, informed the Hon’ble High Court for the States of Punjab and Haryana at Chandigarh in CWP No. 16846/2003 that Vigilance Bureau has submitted this report of the Enquiry conducted into misdeeds of*

Dr. K.S Aulakh, Vice- Chancellor, PAU, Ludhiana to the Department of Home, Punjab (copy enclosed).

- b. The letter dated 18.02.05 written by the Vigilance Department to the Financial Commissioner (Development), Department of Agriculture, Punjab in this respect as mentioned in the order of the Hon'ble High Court for the State of Punjab and Haryana at Chandigarh (copy enclosed).*
- c. Orders of the Hon'ble Governor of Punjab to the Vigilance Department to reexamine the Vigilance Report.*
- d. The action so far taken after the order were received from the Hon'ble Governor in this regard”.*

The complainant alleges in his complaint dated 08.02.2006 that no information has been supplied by the Respondents to him. Respondent No.2 states before me that it that is Vigilance Bureau can supply information only regarding Item No. (a) and regarding Items (b) to (d) the information is with Respondent No.1.

Sh. Prithi Chand, Additional Secretary Vigilance Department appearing on behalf of Respondent No. 1 states that the Complainant has not made any request for information to the PIO of Respondent No. 1. He further states that the request of the Complaint shall be considered by Respondent No. 1 in case the Complainant makes an application with the appropriate fee.

In regard to items Nos. (b) to (d) above, I direct that Respondent No.1 that is Vigilance Department shall consider the request as per the provisions of the RTI Act, 2005 as and when a specific application in that behalf is made to it by the Complainant.

Regarding Item No. (a), Respondent No.2 that is Vigilance Bureau raises the plea that the additional fee required for supply of copies was received late being paid on 25.01.2006 instead of by the due date 08.01.2006. According to Respondent No. 2, the application seeking information was thus ordered to be filed in terms of the provisions of Rule 4(5) of the Govt. of Punjab Rules under the RTI Act, 2005. On the basis of this technicality Respondent No.2 submits that it was justified in not providing the information demanded by the Complainant.

I have considered this submission made by Respondent No. 2 and am of the view that the plea raised by Respondent No.2 is without merit. It is settled law that procedural provisions are merely directory and cannot be used to defeat the substantive rights of the parties. The point raised by Respondent No. 2 is thus overruled. I therefore, direct Vigilance Bureau to decide on merits within 15 days the application seeking information under intimation to this Commission.

In the hearing before the Commission today I find that a Junior Clerk has been deputed to represent the Vigilance Bureau. This is quite improper as he is in no position whatsoever to present the stand of the PIO. The PIO of Vigilance Bureau is directed to be present personally at the time of hearing or authorise a suitably empowered person to represent him before the Commission.

The matter to come up for hearing on 15th June, 2006 for confirmation of compliance.

Chandigarh
Dated:24.04.2006

Chief Information Commissioner,
Punjab

PUNJAB STATE INFORMATION COMMISSION
SCO No. 84-85, Sector 17-C, CHANDIGARH.

Mr. Gurmit Singh Bocki ,
M/s. Bocki Industries,
Ladowali Road, Jalandhar

----- Complainant

Vs

Public Information Officer,
Sub-Divisional Officer (Canal),
Jalandhar Sub Division,
Jalandhar.

-----Respondent

C.C. No.28 of 2006

ORDER

The Complainant is not present. Mr. Sodhi Ram, Sub Divisional Officer (Canals), holding additional charge of the Sub Division in Jalandhar and Mr. Manmohan Singh, former Sub Divisional Officer (Canals) of the Jalandhar Sub Division. (presently on leave) are present on behalf of the Respondent.

It is submitted by Mr. Manmohan Singh, former Sub Divisional Officer, Jalandhar Sub Division, that when the request for information was received by him he had sought orders of his superior officer, that is the Executive Engineer in Jalandhar. The Executive Engineer had clarified that the record in question was not available. However, efforts were made to trace the relevant record from the files pertaining to the acquisition of land which had been consigned to the record room. The file was not found even in the record room and the concerned officer in charge of the Record Room reported that the file in question might have been destroyed during a fire which broke out in the Record Room.

In the circumstances the plea of the Department is that the original record is not available and might have been destroyed. The two SDOs appearing before me state that they have copies of the original documents attested by the then SDO which contain the relevant information.

I am satisfied with the statement made by the Public Information Officer that the Department had made all efforts to trace the file. The original material not being available, it would suffice in the instant case if copies of the documents which have been attested by the then SDO are supplied to the complainant.

Public Information Officer is directed to supply the above information to the Complainant immediately.

To come up for confirmation of compliance of this order on 22nd June, 2006. Copies of this order be delivered to both the parties.

Chandigarh
Dated: 24.04.2006

Chief Information Commissioner,
Punjab.

PUNJAB STATE INFORMATION COMMISSION

SCO No. 84-85, Sector 17-C, CHANDIGARH.

Sh. Ashwani Kumar Kukkar,
Phase-I, Civil Lines,
Fazilka, Distt. Ferozepur.

----- Appellant

Vs

Public Information Officer,
O/o The Secretary,
Department of Education,
Govt. of Punjab, Pb. Civil Secretariat,
Chandigarh.

----- Respondent

A.C. No.5 of 2006

ORDER

Appellant is not present. Mr. Nirmal Singh Senior Assistant Education Department is present on behalf of the Respondent.

The respondent states that the information in question is being obtained from the Directorate of Education (DPI Schools). The Public Information Officer in the office of Secretary Education is prepared to supply this information to the appellant in case the fees as due are deposited. It is decided here today that the appellant will deposit the fee immediately and the respondent will ensure that the information is duly supplied to him within a period of one month. It is the responsibility of the Public Information Officer in the office of Secretary Education to obtain the information from the DPI's office which is subordinate to Education Secretary.

To come up for confirmation of compliance of this order on 22nd June, 2006.

Chandigarh
Dated: 24.04.2006

Chief Information Commissioner,
Punjab

