

PUNJAB STATE INFORMATION COMMISSION

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

Ph: 0172-2864101, Helpline 0172-2864100

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Sh. Ashok Kumar

S/o Sh. Sham Lal,
Bank Street, New Basti,
Nabha-147201, District Patiala
(M:9780150888)

.....Appellant

Vs

Public Information Officer,

O/o District Manager,
Markfed, Sangrur

First Appellate Authority

O/o District Manager,
Markfed, Sangrur

.....Respondents

Appeal Case No. 3592 of 2022

ORDER

This order may be read with reference to the previous order dated 18.12.2024 vide which the case was reserved to be pronounced.

2. The appellant sought the following information:

- “1. ਬ੍ਰਾਂਚ ਮੈਨੇਜਰ ਮਾਰਕਫੈਡ ਭਵਾਨੀਗੜ੍ਹ ਦੁਆਰਾ ਸਾਲ 2009-10 ਵਿੱਚ ਮਿਤੀ 30-04-2011, 30-05-2011 Paddy Physical Report to DM Markfed Sangrur ਦੀਆਂ ਦੋ ਕਾਪੀਆਂ ਤਸਦੀਕਸ਼ੁਦਾ ਦਿੱਤੀਆਂ ਜਾਣ।
2. ਬ੍ਰਾਂਚ ਮੈਨੇਜਰ ਮਾਰਕਫੈਡ ਭਵਾਨੀਗੜ੍ਹ ਦੁਆਰਾ ਸਾਲ 2010-11 ਵਿੱਚ ਮਿਤੀ 30-05-2011, 30-06-2011 Paddy Physical Report to DM Markfed Sangrur ਦੀਆਂ ਦੋ ਕਾਪੀਆਂ ਤਸਦੀਕਸ਼ੁਦਾ ਦਿੱਤੀਆਂ ਜਾਣ।

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3. District Manager Markfed Sangrur Year 2010-11 ਵਿੱਚ ਮਿਤੀ 30-06-2011 Paddy Intact Physical Report to MD/GM Markfed Chandigarh ਦੀਆਂ ਦੋ ਕਾਪੀਆਂ ਤਸਦੀਕਸ਼ੁਦਾ ਦਿੱਤੀਆਂ ਜਾਣ।
4. Letter Number- DM/MFD/SGRII1924 dated 03-10-2011 ਤਸਦੀਕਸ਼ੁਦਾ ਦੀ ਕਾਪੀ ਦਿੱਤੀ ਜਾਵੇ।
5. Letter Number-ਜ.ਪ/ਐੱਲ.ਏ/741 ਮਿਤੀ 01-06-2012 ਦੀ ਕਾਪੀ ਦਿੱਤੀ ਜਾਵੇ। ਪੱਤਰ ਦੇ ਨਾਲ ਲੱਗਿਆ ਇਕਰਾਰਨਾਮਾ ਮਿਤੀ 13-11-2010, ਭੇਤਿਕ ਪੜ੍ਹਤਾਲ 31-01-2012 ਦੀ ਕਾਪੀ, ਹਿੱਸੇਦਾਰਾਂ ਦੀ ਕਾਪੀ, ਰਸੀਦਾਂ ਦੀ ਕਾਪੀ ਦਿੱਤੀ ਜਾਵੇ।“

3. Due to non satisfaction the appellant filed the 2nd appeal in the Commission which was adjourned number of times to take the matter to its logical end. But during the hearing held on 11.07.2024 the appellant filed the written submissions that he has received the information pertaining to Point No. 3, 4 and 5. Further, he has requested to direct the respondent PIO to supply the remaining information pertaining to Point No. 1 and 2 of the RTI application. Accordingly, the respondent PIO, Sh. Anil Kumar, Senior Accounts Officer was directed to file a point-wise reply pertaining to the Point No. 1 and 2 of the sought information i.e. Physical verification certificates of dated 30.5.2011 submitted by Branch Manager, Markfed Bhawanigarh to D.M., Markfed, Sangrur and the case was adjourned to 07.08.2024. On the said date the appellant requested for an adjournment and thereafter the case was fixed for hearing on 25.9.2024 and further adjourned for 18.12.2024.

4. During the last hearing the appellant made submissions that he has received the reply regarding the remaining points from Markfed, Bhawanigarh and Markfed, Sangrur by a way of

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an affidavit, that the record is not available, the relevant portion of which is as follows:-

- I) Branch Manager, Markfed, Bhwanigarh

ਬਿਆਨ ਹਲਫੀਆ

ਮੈਂ, ਬਲਜਿੰਦਰ ਸਿੰਘ ਮਹਿਕਮਾ ਮਾਰਕਫੈਡ 'ਚ ਬਤੌਰ ਬਰਾਂਚ ਮਨੇਜਰ, ਭਵਾਨੀਗੜ੍ਹ, ਜਿਲਾ ਸੰਗਰੂਰ
ਵਿਖੇ ਡਿਊਟੀ ਕਰ ਰਿਹਾ ਹਾਂ ਮੈਂ ਹਲਫ ਨਾਲ ਬਿਆਨ ਕਰਦਾ ਹਾਂ ਕਿ:

- 1) ਇਹ ਕਿ ਅਸ਼ੋਕ ਕੁਮਾਰ ਪੁੱਤਰ ਸ਼ਾਮ ਲਾਲ ਵੱਲੋਂ ਆਰ.ਟੀ.ਐਕਟ 2005 ਦੇ ਅਧੀਨ ਰਾਹੀਂ
ਪੱਤਰ ਨੰ: 3592/2022 ਦੇ ਮਹਿਕਮਾ ਮਾਰਕਫੈਡ ਤੋਂ ਫਸਲ ਜੀਰੀ ਸਾਲ 2009-10 ਅਤੇ
ਫਸਲ ਸਾਲ 2010-11 ਦੀ ਮਿਤੀ 30.05.2011 ਦੀ ਭੌਤਿਕ ਪੜਤਾਲਾਂ ਦੀ ਸੂਚਨਾ ਮੰਗੀ
ਗਈ ਸੀ।

- 2) ਇਹ ਕਿ ਉਕਤ ਮੰਗੀ ਗਈ ਸੂਚਨਾ/ਰਿਕਾਰਡ ਸਾਲ 2009-10 ਅਤੇ ਫਸਲ ਸਾਲ
2010-11 ਸਾਡੇ ਦਫਤਰ ਪਾਸ ਮੌਜੂਦ ਨਹੀਂ ਹੈ ਜਿਸ ਸੰਬੰਧੀ ਹਲਫੀਆ ਬਿਆਨ ਦੇ ਰਿਹਾ



On the contents of the affidavit
substantive have been read over to
the documents Mr/She has accepted
the true & correct

ਤਸਦੀਕ :

ਮੈਂ ਜੋ ਵੀ ਉਪਰੋਕਤ ਲਿਖਵਾਇਆ ਹੈ ਆਪਣੀ ਸੁੱਧੀ ਬੁੱਧੀ ਅਨੁਸਾਰ ਸਹੀ ਵਾ ਦਰੁਸਤ
ਹੈ। ਮੈਂ ਇਸ ਵਿਚ ਕੁਝ ਵੀ ਲੁਕਾ ਛੁਪਾ ਕੇ ਨਹੀਂ ਰੱਖਿਆ।

ਮਿਤੀ:

Attested As Identified
NOTARY (Govt. of India)
Distt. PATIALA (Pb.)

24/11/22

ਬਿਆਨਕਰਤਾ

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II) D.M. Markfed, Sangrur

ਸਰਟੀਫਿਕੇਟ ਨੰ. IN-PB43122359847900W

ਮਿਤੀ 05 ਅਗਸਤ 2024

ਬਿਆਨ-ਹਲਫੀਆ

ਮੈਂ ਅਨਿਲ ਕੁਮਾਰ ਪੁੱਤਰ ਸ਼੍ਰੀ ਬੇਲੂ ਰਾਮ ਵਾਸੀ ਸੰਗਰੂਰ ਮਾਰਕਫੈਡ ਜਿਲ੍ਹਾ ਦਫਤਰ ਸੰਗਰੂਰ ਵਿਖੇ ਬਤੌਰ ਉੱਚ ਲੇਖਾ ਅਫਸਰ ਅਤੇ ਲੋਕ ਸੂਚਨਾ ਅਫਸਰ ਤੌਰ 'ਤੇ, ਮੈਂ ਹਲਫ਼ ਨਾਲ ਬਿਆਨ ਕਰਦਾ ਹਾਂ ਕਿ:

- ਮੈਂ ਮਾਰਕਫੈਡ ਵਿੱਚ ਵਿਭਾਗ ਪੰਜਾਬ ਐਗਰੇ ਇੰਡਸਟਰੀ ਕਾਰਪੋਰੇਸ਼ਨ ਤੋਂ ਬਤੌਰ ਸਹਾਇਕ ਲੇਖਾ ਅਫਸਰ 2019 ਵਿੱਚ ਡੈਪੁਟੇਸ਼ਨ ਉੱਪਰ ਆਇਆ ਸੀ।
- ਸ਼੍ਰੀ ਅਸ਼ੋਕ ਕੁਮਾਰ ਪੁੱਤਰ ਸਵ. ਸ਼ਾਮ ਲਾਲ ਵਾਸੀ ਬੈਂਕ ਸਟਰੀਟ ਨਵੀਂ ਬਸਤੀ ਨਾਭਾ ਜਿਲ੍ਹਾ ਪਟਿਆਲਾ ਵਲੋਂ ਅਪੀਲ ਕੇਸ ਨੰਬਰ 3592/2022 ਰਾਹੀਂ ਮਾਰਕਫੈਡ ਜਿਲ੍ਹਾ ਦਫਤਰ ਸੰਗਰੂਰ ਤੋਂ ਸੂਚਨਾ ਮੰਗੀ ਗਈ ਸੀ।
- ਇਸ ਆਰ.ਟੀ.ਆਈ. ਬਿਨੈ-ਪੱਤਰ ਦੇ ਲੜੀ ਨੰ. 1 ਅਤੇ 2 ਵਿੱਚ ਮੰਗੀ ਗਈ ਸੂਚਨਾ ਜੋ ਕਿ ਬਰਾਦਰ ਮੈਨੇਜਰ ਭਵਾਨੀਗੜ੍ਹ ਦੁਆਰਾ ਜੀਰੀ ਫਸਲ ਸਾਲ 2009-10 ਅਤੇ ਸਾਲ 2010-11 ਵਿੱਚ ਮਿਤੀ 31.05.2011 Paddy Physical Report to DM Markfed Sangrur ਹੈ। ਇਸ ਅਪੀਲ ਕੇਸ ਦੀ ਸੁਣਵਾਈ ਦੌਰਾਨ ਸ਼੍ਰੀ ਮਨਿੰਦਰ ਸਿੰਘ ਪੱਟੀ ਦੀ ਅਦਾਲਤ ਵਿੱਚ ਦਿੱਤੇ ਬਿਆਨ-ਹਲਫੀਆ ਅਤੇ ਸਬੰਧਤ ਡੀਲਿੰਗ ਹੈਂਡ ਸੁਪਰਡੈਂਟ (ਝੋਨਾ ਅਤੇ ਚਾਵਲ) ਤੋਂ ਪ੍ਰਾਪਤ ਜਾਣਕਾਰੀ ਦੇ ਅਧਾਰ ਤੇ ਇਹ ਦੱਸਿਆ ਜਾਂਦਾ ਹੈ ਕਿ ਇਹ ਸੂਚਨਾ ਮਾਰਕਫੈਡ ਸੰਗਰੂਰ ਦੇ ਦਫਤਰ ਵਿੱਚ ਉਪਲੱਬਧ ਨਹੀਂ ਹੈ।
- ਇਥੇ ਇਹ ਵੀ ਸਪੱਸ਼ਟਕਰਨ ਯੋਗ ਹੈ ਕਿ ਇਹ ਸੂਚਨਾ ਨਾ ਦੇਣ ਦਾ ਕਾਰਨ ਬਿਆਨਕਾਰ ਦੀ ਪ੍ਰਾਰਥੀ ਪ੍ਰਤੀ ਕੋਈ ਦੁਰਭਾਵਨਾ ਨਹੀਂ ਹੈ।

ਸਥਾਨ ਸੰਗਰੂਰ

ਮਿਤੀ 6/8/2024

The Contents of this affidavit/document has been read over to the deponent/executor who has accepted it true and correct

ਬਿਆਨਕਾਰ

ਲੋਕ ਸੂਚਨਾ ਅਫਸਰ

ਮਾਰਕਫੈਡ ਸੰਗਰੂਰ

ਮੈਂ ਇਹ ਘੋਸ਼ਣਾ ਕਰਦਾ ਹਾਂ ਕਿ ਉਪਰੋਕਤ ਦਿੱਤੀ ਸੂਚਨਾ ਮੇਰੀ ਜਾਣਕਾਰੀ ਅਨੁਸਾਰ ਦਰੁਸਤ ਹਨ ਅਤੇ ਇਸ ਵਿੱਚ ਕੁਝ ਵੀ ਛੁਪਾਇਆ ਨਹੀਂ ਗਿਆ ਹੈ।

ਮਿਤੀ

ਬਿਆਨਕਾਰ

ਲੋਕ ਸੂਚਨਾ ਅਫਸਰ

6/8/24

7871 2695 551

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5. Accordingly, the respondent PIO was directed to reconsider the matter and file the reply afresh, if any as missing file is not an exemption as per the provisions of the RTI Act, 2005. He was also directed that a copy of the same be sent to the appellant within thirty days and the appellant is at liberty to file the counter submissions, if any, within sixty days from the issue of this order.

6. Thereafter, the respondent PIO again sent the reply and the relevant portion of the same is as follows:-

ਉਪਰੋਕਤ ਵਿਸ਼ੇ ਦੇ ਅਤੇ ਹਵਾਲਾ ਅਧੀਨ ਪੱਤਰ ਦੇ ਸਬੰਧ ਵਿੱਚ, ਝੋਨਾ ਅਤੇ ਚਾਵਲ ਸ਼ਾਖਾ ਦੇ ਨਾਲ ਸਬੰਧਤ ਰਿਕਾਰਡ ਘੋਖਣ ਉਪਰੰਤ ਅਤੇ ਸ਼ਾਖਾ ਇੰਚਾਰਜ ਮਾਰਕਫੈਡ ਸ਼ਾਖਾ ਭਵਾਨੀਗਰੁ ਵਲੋਂ ਇਸ ਸਬੰਧ ਵਿੱਚ ਦਿੱਤੇ ਬਿਆਨ-ਹਲਫੀਆ ਦੇ ਅਧਾਰ ਤੇ ਆਪ ਜੀ ਨੂੰ ਦੱਸਿਆ ਜਾਂਦਾ ਹੈ ਕਿ ਇਸ ਆਰ.ਟੀ.ਆਈ. ਬਿਨੈ-ਪੱਤਰ ਦੇ ਲੜੀ ਨੰ. 1 ਅਤੇ 2 ਵਿੱਚ ਮੰਗੀ ਗਈ ਸੂਚਨਾ ਜੋ ਕਿ ਬਰਾਚ ਮੈਨੇਜਰ, ਭਵਾਨੀਗਰੁ ਦੁਆਰਾ ਜੀਰੀ ਫਸਲ ਸਾਲ 2009-10 ਅਤੇ ਸਾਲ 2010-11 ਵਿੱਚ ਮਿਤੀ 31.05.2011 Paddy Physical Report to DM Markfed Sangrur ਹੈ ਇਸ ਸ਼ਾਖਾ (ਝੋਨਾ ਅਤੇ ਚਾਵਲ) ਨੂੰ ਪ੍ਰਾਪਤ ਨਹੀਂ ਹੋਈ ਹੈ।

After receipt of the response from the respondent, the appellant filed the counter submissions and the relevant portion of the same is as follows:-

1. The brief facts of the case are that the Appellant/applicant Ashok Kumar has demanded information vide RTI application dated 22.04.22 regarding the Physical verification certificates issued by the then, Branch Manager Bhawanigarh from respondent PIO, Markfed Sangrur under RTI Act, 2005. But the PIO, Sangrur did not provide the information within statutory time period. Aggrieved to this, the appellant File First Appeal and the same has not been heard and decided by the First Appellate Authority. After that, Respondent PIO has sent an incomplete information vide letter dt. 10-06-22.

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2. That after being unsatisfied from the respondent PIO, the appellant Filed Second Appeal before this Hon'ble Commission bearing no. 3592 of 2022 and requested this Hon'ble commission to give directions to respondent PIO for supplying the information which is demanded by applicant and has not supplied by respondent PIO. The information sought at point no. 1 and 2 of RTI application regarding PV certificates of dated 30-05-2011 submitted by Branch Manager, Markfed Bhawanigarh to DM Markfed, Sangrur has not provided by the respondent PIO. Further, appellant prayed that if the information is not available with respondent PIO then affidavit may kindly be taken from the respondent PIO and strict action kindly be taken against all the officers who are responsible for the misappropriation of the Public property/ Official Documents.
3. That the First hearing of the above said second appeal was fixed for 06.12.22. Both the parties were present in the hearing. During hearing, **the respondent PIO orally states that the record relating to the information sought by the appellant has got**

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destroyed due to rainy water, therefore, they cannot provide the information to the appellant. After deliberations, Ld. Commissioner Directed the respondent PIO to provide the available information to the appellant, if any, before the next date of hearing and he should present personally in the commission. Further Ld. commissioner directs that if information sought by appellant is not available in the official records, then PIO is directed to file an AFFIDAVIT in this regard duly attested by the Notary Public and produce the same before the bench on the next date of hearing failing which action will be initiated against the PIO as per Provisions of the RTI Act, 2005.

4. That Baljinder Singh, Branch Manager Markfed Bhawanigarh had gave AFFIDAVIT dated 24-01-2023 that information sought vide Appeal case no. 3592/2022 regarding physical verification dated 30-05-2011 is not available in his office. Copy of AFFIDAVIT is enclosed as **Annexure S1**. It is specifically mentioned here that no reason has been mentioned by the branch manager as to why the information is not available with his office. Thereafter, same kind of affidavit dated 06-08-2024 has given by Anil Kumar, PIO in which he mentions that the information

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sought is not available in his office. It is specifically mentioned here that no reason has been mentioned by the respondent PIO as to why the information is not available with his office. Copy of AFFIDAVIT alongwith covering letter are enclosed as **Annexure S2 and S3**.

5. That vide letter dated 10-01-2025, Respondent PIO has enclosed letter written by Gurinderjit Singh, Superintendent (Paddy and Rice), Markfed Sangrur in which he mentions that above mentioned PV certificates were not received by his office. Copy of both letters are enclosed as **Annexure S4 and S5**.

Proof of Existence of PV Certificates:

6. That the above mentioned PV certificates in question were prepared and submitted with the office of respondent PIO. On the basis of PV certificate submitted by branch manager, District Manager Markfed Sangrur had Prepared PV certificate regarding the status of Paddy/rice stocks as on 30-05-2011. It is clearly mentioned in the certificate that as reported by BO's in District Sangrur and Barnala the paddy stocks are lying intact as on 31-05-2011. Copy of this PV certificate is enclosed as **Annexure S6**. This certificate (Annexure S6) shows the existence of PV certificates. It is pertinent to mention here that this certificate (Annexure S6) has given by respondent PIO to appellant under RTI Act, 2005. It is also pertinent to mention here that every

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month branch managers submits certificate of Paddy lying in the rice mills of their area mentioning the physical status of paddy stocks.

7. That it is pertinent to mention here that the respondent PIO, during the hearing dated 06-12-2022 before this commission, has orally stated that information sought is destroyed due to rainy water, which means the information sought was existed with the office of respondent PIO as well as with Branch Manager that's why he alleged of destroying information. Further, it is pertinent to mention here that no information sought vide RTI Application was destroyed due to rainy water. As no proof of this kind had submitted by PIO before this Commission. Further it is also pertinent to mention here that the files in which these certificates are lying were brought by the office of PIO in the Hon'ble court of Smt. Sumit Sabharwal, JMIC, Sangrur and as well as in this commission. But no information in question was lying in the files. Therefore, the matter may got kindly be enquired and strict action may kindly be taken against the officials who has embezzled the documents/records and are responsible for loss of records in accordance with the law laid down by Hon'ble Punjab and Haryana High court in "**Gagnish Singh Khurana vs State of Punjab & Ors**" 2023(3) RCR(Civil) 847 and by Hon'ble Delhi High Court in "**Union of India v. Vishwas Bhamburkar**": 2013(4) R.C.R.(Civil) 652.

7. Keeping in view the submissions made by the parties and after going through the case file it is evident that the appellant sought the information from the D.M., Markfed, Sangrur but during the hearing the respondent pleaded that due to rainy water the record has been destroyed and cannot be provided to the appellant but after the directions of the Commission to

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file an affidavit in this regard, the Branch Manager, Bhawanigarh filed the affidavit without mentioning the fact about the rainy water. Secondly, the Branch Manager, Bhawanigarh was present and has filed the affidavit when he was neither the party in this case nor he was directed by the Commission specifically to file an affidavit. The relevant portion of the affidavit has already mentioned herein vide which he has filed the submissions that the said information is not available on record in the office of the Branch Manager, Bhawanigarh.

8. Since, the appellant sought the information from the DM, Markfed, Sangrur, accordingly, the PIO o/o the D.M., Markfed, Sangrur was directed to file an affidavit regarding the receipt and information related to the Physical verification certificates as has been sought by the appellant and the said PIO filed the reply by way of an affidavit and by way of letter, mentioned herein that the said letter has not been received in the concerned branch. It is also a fact that during the earlier hearing, the respondent PIO o/o D.M. Markfed, Sangrur pleaded in the presence of the Branch Manager, Markfed, Sangrur that due to rainy water the record has been destroyed but while filing an affidavit he knowingly not mentioned the same.

9. It is an astonished fact that earlier the PIO in the presence of Sh. Baljinder Singh, Branch Manager, Markfed, Bhawanigarh categorically made the submissions that due to rainy water, the department is unable to supply the information and later on the PIO as well as the Branch Manager, Markfed, Bhawanigarh filed the affidavits that the information related to the physical verification certificates is not available in their offices which raises eyebrows that the sought information is not available in the office of Branch Manager, Markfed, Bhawanigarh by whom the said physical verification reports were sent and in the office of the D.M., Markfed, Sangrur to whom the said physical verification reports were sent.

10. Both the PIOs, O/o Markfed Sangrur and Bhawanigarh taking the same plea without any evidence to justify their version, which is not tenable in the eyes of Law. It is also a fact that missing record is not an exemption as per the provisions of the RTI Act, 2005 rather from the above, it is apparent that the respondent willfully and knowingly harassed the appellant by not providing the adequate information and misleading the Commission and an appropriate action

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has to be taken against the respondent(s). It is also a fact that neither the department made any submission that the said record has been destroyed nor has placed on record any action taken for the misplacement of an important record related to physical verification certificate.

11. In the interest of natural justice, many opportunities were awarded to the respondent department i.e. PIO o/o District Manager, Markfed Sangrur as well as to the Branch Manager, Markfed Bhawanigarh, but all in vain.

12. It is appropriate to mention the decision passed by the Hon'ble High Court of Delhi at New Delhi in WP(C) 900 of 2021 Sh. Rakesh Kumar Gupta Vs Central Information Commission, the relevant portion of which is as follows:-

"15. On the basis of the above judgments, the following principles can be clearly gleaned:

- i) CPIO/PIOs cannot withhold information without reasonable cause;*
- ii) A PIO/CPIO cannot be held responsible if they have genuinely rejected the information sought on valid grounds permissible under the Act. Mere difference of opinion on the part of CIC cannot lead to an imposition of penalty under section 20 of the RTI Act;*
- iii) Government departments ought not to be permitted to evade disclosure of information. Diligence has to be exercised by the said departments, by conducting a thorough search and enquiry, before concluding that the information is not available or traceable;*
- iv) Every effort should be made to locate information, and the fear of disciplinary action would work as a deterrent against suppression of information for vested interests;*
- v) PIO/CPIO cannot function merely as "post offices" but instead are responsible to ensure that the information sought under the RTI Act is provided;*
- vi) A PIO/CPIO has to apply their mind, analyze the material, and then direct disclosure or give reasons for non-disclosure. The PIO cannot rely upon subordinate officers;*
- vii) Duty of compliance lies upon the PIO/CPIO. The exercise of power by the PIO/CPIO has to be with objectivity and seriousness the PIO/CPIO cannot be casual in their approach.*
- viii) Information cannot be refused without reasonable cause."*

13. It is also appropriate to mention the decision of the Hon'ble Delhi High Court in W.P.(C.) No. 3660 of 2012 and C.M. No. 7664 of 2012 (stay). D/d. 13.09.2013 titled as Union of India V.

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Vishwas Bhamnurkar and the relevant portion of the same is reproduced below:

“7. *This can hardly be disputed that if certain information is available with a public authority, that information must necessarily be shared with the applicant under the Act unless such information is exempted from disclosure under one or more provisions of the Act. It is not uncommon in the Government departments to evade disclosure of the information taking the standard plea that the information sought by the applicant is not available.*

Ordinarily, the information which at some point of time or the other was available in the records of the Government, should continue to be available with the concerned department unless it has been destroyed in accordance with the rules framed by that department for destruction of old record. Therefore, whenever an information is sought and it is not readily available, a thorough attempt needs to be made to search and locate the information wherever it may be available. It is only in a case where despite a thorough search and inquiry made by the responsible officer, it is concluded that the information sought by the applicant cannot be traced

or was never available with the Government or has been destroyed in accordance with the rules of the concerned department that the CPIO/PIO would be justified in expressing his inability to provide the desired information. Even in the case where it is found that the desired information though available in the record of the Government at some point of time, cannot be traced despite best efforts made in this regard, the department concerned must necessarily fix the responsibility for the loss of the record and take appropriate departmental action against the officers/officials responsible for loss of the record. Unless such a course of action is adopted, it would be possible for any department/office, to deny the information which otherwise is not exempted from disclosure, wherever the said department/office finds it inconvenient to bring such information into public domain, and that in turn, would necessarily defeat the very objective behind enactment of the Right to Information Act.

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8. *Since the Commission has the power to direct disclosure of information provided, it is not exempted from such disclosure, it would also have the jurisdiction to direct an inquiry into the matter wherever it is claimed by the PIO/CPIO that the information sought by the applicant is not traceable/readily traceable/currently traceable. Even in a case where the PIO/CPIO takes a plea that the information sought by the applicant was never available with the Government but, the Commission on the basis of the material available to it forms a prima facie opinion that the said information was in fact available with the Government, it would be justified in directing an inquiry by a responsible officer of the department/office concerned, to again look into the matter rather deeply and verify whether such an information was actually available in the records of the Government at some point of time or not. After all, it is quite possible that the required information may be located if a thorough search is made in which event, it could be possible to supply it to the applicant. Fear of disciplinary action, against the person responsible for loss of the information, will also work as a deterrence against the willful suppression of the information, by vested interests. It would also be open to the Commission, to make an inquiry itself instead of directing an inquiry by the department/office concerned. Whether in a particular case, an inquiry ought to be made by the Commission or by the officer of the department/office concerned is a matter to be decided by the Commission in the facts and circumstances of each such case."*

14. It has mentioned in the said judgment that PIO is not supposed to work as post office rather have a crucial responsibility in facilitating the purpose of the RTI Act.

15. An ample opportunities have already been awarded to the respondent PIO but he is unable to explain his conduct and situation about the Physical verification certificate information of which has been sought by the appellant; which has been misplaced in both the wings of the department i.e. the origin of the document and the destination of the document. After going through the submissions made by the parties, mentioned herein, the fact is proved that the respondent PIO mislead the Commission as well as knowingly given incorrect, incomplete and/or misleading information and/or destroyed information which was the subject of the request and/or obstructed in any manner in furnishing the information keeping in view the above, he is liable to be punished under the provisions of the RTI Act, 2005. As such, the forum comes to a

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logical conclusion that it is a fit case for the imposition of penalty amounting to Rs. 25,000/- (Rupees twenty five thousands only) upon the PIO o/o D.M. Markfed, Sangrur Sh. Anil Kumar, Accountant. The Drawing and Disbursing Officer of the office of D.M., Markfed, Sangrur is directed to deduct the amount of penalty of Rs. 25000/- (Rupees twenty five thousands only) from the salary of PIO Sh. Anil Kumar, Accountant o/o D.M., Markfed, Sangrur and deposit it in the State Treasury in the following Head of Account and to report its compliance to the Commission within three months:-

"0070-Other Administrative Services

60 other Services

800-Other Receipts

86-Fee under the RTI Act, 2005"

The D.M., Markfed, Sangrur will personally responsible and ensure to send the compliance report in this regard as he is the head of the office.

16. Since, the important record which appears to be misplaced and the respondent public authority is unable to take an appropriate action for fixing the responsibility/lodging an FIR/DDR, therefore, a disciplinary action is also recommended to the Managing Director, Markfed, Sector 34, Chandigarh against all concerned related to the office of Branch Manager, Markfed, Bhawanigarh and D.M., Markfed, Sangrur as well as against any other 'Public Servant' involved, as per the provisions of the RTI Act, 2005 for misplacement of record and for obstruction in furnishing the information. He is also directed to take the appropriate action in this regard as per the procedure established by law preferably within six months and final conclusion of action taken be sent to the Commission for information. Accordingly, the case is disposed of and closed.

Date: 13.3.2025

**(Inderpal Singh)
Chief Information Commissioner
Punjab**

CC:

Managing Director (By name)
No. 4, Markfed House,
Dakhshin Marg, 35B,
Sector 35 B, Chandigarh, 160035

D.M. (By name)
Markfed, Sangrur, Punjab