

PUNJAB STATE INFORMATION COMMISSION

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

Ph: 0172-2864101, Helpline 0172-2864100

Email: psic20@punjabmail.gov.in Visit us: www.infocommpunjab.com



Sh. Harinder Singh Sidhu,
S/o Late Sh. Jagdev Singh,
R/o # 236, Sector 21-A,
Chandigarh
M: 9815355655

....Appellant

V/s

Public Information Officer,
O/o Secretary Personnel,
Punjab Civil Secretariat,
Chandigarh

First Appellate Authority,
O/o Secretary Personnel,
Govt. of Punjab (PP-2),
Punjab Civil Secretariat,
Chandigarh

....Respondents

Appeal Case No. 5731 of 2024

ORDER

This order may be read with reference to the previous order dated 11.03.2026 vide which the order was reserved to be pronounced.

2. The appellant has sent the request to the respondent PIO to supply the following information:

"1) Number of inquiries marked and pending with Sh. B.C. Gupta, Additional District and Sessions Judge (Retd.) on the panel of Punjab Government from:-

a) 01.01.2020 to 31.12.2020

b) 01.01.2021 to 31.12.2021

c) 01.01.2022 to 31.12.2022

d) 01.01.2023 to 30.06.2023

2) Number of inquiries decided by Sh. B.C. Gupta, Additional District and Sessions Judge (Retd.) on the panel of Punjab Government from:

a) 01.01.2020 to 31.12.2020

b) 01.01.2021 to 31.12.2021

c) 01.01.2022 to 31.12.2022

d) 01.01.2023 to 30.06.2023"

3. The request of the appellant was denied on the ground that the Inquiry Officers had been entrusted the inquiries by the different departments so the appellant can get the information from the different departments i.e. Point No. 1.

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4. However, the appellant placed on record, a copy of letter written to Sh. B.C. Gupta, Additional & Session Judge (Retired) in the year 2019 and the information sought by the appellant was provided by the Personnel Department in the year 2020. The said letter written to Sh. B.C. Gupta, Additional District & Session Judge (Retired) by the Personnel Department is as follows:

1/30618/2020(1) FILE NO. PERS-PP-20RTI/6/2020-2PP2

ਪੰਜਾਬ ਸਰਕਾਰ
ਪ੍ਰਸ਼ਨਨ ਵਿਭਾਗ
(ਪ੍ਰਸ਼ਨਨ ਪਾਲਿਸੀ-2 ਸਾਖਾ)

ਸੇਵਾ ਵਿਖੇ

ਸ੍ਰੀ ਬੀ.ਸੀ.ਗੁਪਤਾ,
ਵਧੀਕ ਜਿਲ੍ਹਾ ਅਤੇ ਸੈਸ਼ਨ ਜੱਜ(ਰਿਟਾ.)
ਹਾਊਸ ਨੰ:601, ਫੇਸ-2 ਅਜੀਤਗੜ੍ਹ(ਮੋਹਾਲੀ)।

ਨੰ:PERS-PP/20RTI/6/2020-2PP2/ 30619
ਮਿਤੀ: 04/06/19

ਵਿਸ਼ਾ:- ਪੰਜਾਬ ਸਿਵਲ ਸੇਵਾਵਾਂ (ਸਜਾ ਅਤੇ ਅਪੀਲ) ਨਿਯਮਾਵਲੀ, 1970 ਅਧੀਨ ਕੀਤੀ
ਜਾਂਦੀ ਪੜਤਾਲ ਸਬੰਧੀ।

ਉਪਰੋਕਤ ਵਿਸ਼ੇ ਦੇ ਸਬੰਧ ਵਿੱਚ।

2. ਸ੍ਰੀ ਹਰਿੰਦਰ ਸਿੰਘ ਸਿੱਧੂ, ਵਧੀਕ ਰਜਿਸਟਰਾਰ, ਕੋਆਪਰੇਟਿਵ ਸੋਸਾਇਟੀਜ਼ ਵੱਲੋਂ
ਆਰ.ਟੀ.ਆਈ.ਐਕਟ, 2005 ਅਧੀਨ ਹੇਠ ਅਨੁਸਾਰ ਮੰਗੀ ਗਈ ਸੂਚਨਾ ਮੁਹੱਈਆ ਕਰਵਾਉਣ
ਦੀ ਖੋਚਲ ਕੀਤੀ ਜਾਵੇ:-

1. Number of department inquiries pending with Sh. B.C.Gupta, Additional and Session Judge (Retd.) on Punjab Govt. from 1.1.2019 to 15.03.2020
2. Number of inquiries marked to Sh.B.C.Gupta, Additional and Session Judge (Retd.) by various departments of Punjab Govt. from 1.1.2020 to 15.3.2020

ਸਹੀ/-
ਸੁਪਰਡੈਂਟ

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5. The response submitted by the Personnel Department to Sh. Harinder Singh Sidhu on 31.07.2020 and 27.02.2020 is as follows:

31.07.2020

“2. ਆਪ ਵੱਲੋਂ ਮੰਗੀ ਗਈ ਸੂਚਨਾ ਦੇ ਸਬੰਧ ਵਿੱਚ ਦੱਸਿਆ ਜਾਂਦਾ ਹੈ ਕਿ ਸ੍ਰੀ ਬੀ.ਸੀ.ਗੁਪਤਾ, ਵਧੀਕ ਜਿਲ੍ਹਾ ਅਤੇ ਸੈਸਨ ਜੱਜ (ਰਿਟਾ.)-ਕਮ-ਪੜਤਾਲੀਆ ਅਫਸਰ ਨੇ ਮਿਤੀ 01.01.2020 ਤੋਂ 15.3.2020 ਦੌਰਾਨ 4 ਪੜਤਾਲਾਂ ਪ੍ਰਾਪਤ ਕੀਤੀਆਂ ਹਨ।”

27.02.2020

“2. ਆਪ ਵੱਲੋਂ ਮੰਗੀ ਗਈ ਸੂਚਨਾ ਦੇ ਸਬੰਧ ਵਿੱਚ ਦੱਸਿਆ ਜਾਂਦਾ ਹੈ ਕਿ ਸ੍ਰੀ ਬੀ.ਸੀ.ਗੁਪਤਾ ਵੱਲੋਂ ਮਿਤੀ 1.1.2019 ਤੋਂ 31.12.2019 ਦੌਰਾਨ ਪੰਜਾਬ ਸਰਕਾਰ ਦੇ ਅਲੱਗ-ਅਲੱਗ ਵਿਭਾਗਾਂ ਦੀਆਂ 52 ਰੈਗੂਲਰ ਪੜਤਾਲਾਂ ਕੀਤੀਆਂ ਗਈਆਂ ਹਨ।”

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And has also replied upon the same decision conveyed by the Personnel Department and requested that the directions be issued to the respondent to supply the information. Also, the respondent had written a letter to Sh. B.C. Gupta, Additional District & Session Judge (Retired) to submit the information so that the same can be supplied to the appellant. But Sh. B.C. Gupta, Additional District & Session Judge (Retired) made the written submissions dated 02.01.2025 and the relevant portion of which is as follows:

I was required by the Personnel Branch of the Personnel Department of the State of Punjab to supply this information to the Government, so that the same could be supplied to the Hon'ble Commission. It is not known as to when the original application was moved by Sh. Harinder Singh and what was the decision of that application against which an appeal has been preferred by him.

The Right to Information Act was enacted by the Parliament for setting up the practical regime of Right to Information for citizens to secure access of information under the control of public authorities and for matters connected therewith are incidental thereto and that, in Section 2 of the Act, appropriate Government has been defined as Central or State Government and information means any material in any form including records, documents etc. as mentioned in Section 2(f) of the Act and public authority has been defined in Section 2(h) of the Act. The record has been defined in Section 2(i) of the Act and the Right to Information has been defined in Section 2(j) of the Act.

In Section 4 of the Act, public authority has been required to maintain record due catalogued and indexed in a manner as prescribed and only public authority as defined in Section 2(h) is required to maintain this record. As and when, an application is moved every public authority shall supply the information to the applicant within the prescribed period and only that information can be supplied which is not exempt under Section 8 of the Act.

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I may bring to the notice of the Government that the undersigned after retirement was brought on the panel of Enquiry Officers to conduct enquiries under the Punishment and Appeal Rules, 1970 and these enquiries are entrusted to the Enquiry Officers in the panel by the punishing authority i.e. by the Administrative Secretaries or Heads of the Departments and the enquiries are required to be completed within a period of three months from the date of entrustment. According to the letter dated 09.08.2017 issued by the Personnel Department, secretarial assistance as well as a place to conduct day to day proceedings/hearings in the enquiries shall be made available to the Enquiry Officers by the concerned department and the secretarial assistance includes stationary, computer, computer operator and all documents, so that no difficulty is felt by the Enquiry Officer in conducting the enquiry.

I may submit that under the Right to Information Act, 2005, the Enquiry Officer does not come within the definition of public authority and the information sought is not covered under the definition of information under Section 2(f) of the Act. Only in that information can be supplied which is covered under Section 2(f) of the Act and public authority is required to maintain the record as prescribed in Rule 2(f) of the Act. I have very carefully gone through the provisions of the Act and the Enquiry Officer who has retired from service does not come within the definition of public authority and that the information sought by Sh. Harinder Singh is also not covered under Section 2(f) of the Act.

I may submit that though the Enquiry Officers conducted the enquiries as and when entrusted by the punishing authority and after the completion of the enquiry, the whole original record is sent to the punishing authority along with the file and even, the original letter entrusting the enquiry is returned by the Enquiry Officer. It may be submitted that, no clerk, no peon, computer operator, computer stationary or any other article is provided to the Enquiry Officer by the Government and even, the pen/stationary etc. is used by the Enquiry Officer.

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As no secretarial assistance is provided to the Enquiry Officer and therefore, no record of the enquiries entrusted or decided by the Enquiry Officer is maintained.

The whole record of the enquiries is available with the punishing authority and therefore, I am unable to provide any information as sought by Sh. Harinder Singh, Additional RCS, Punjab. I have a vague memory that this information was also sought earlier 2-3 years back but, no such letter is available with me nor such information was supplied and hence, the Commission may kindly be informed accordingly. I may state that the Ld. Additional Chief Secretary, Punjab Co-operative Department entrusted three regular enquiries to the undersigned for conducting regular enquiries in respect of various allegations as contained in the charge-sheets 30.10.2019, 16.12.2019, 30.10.2019. The evidence has been recorded in all the three enquiries and Sh. Harinder Singh has also submitted written defence version. However, the enquiry reports could not be submitted because the Hon'ble High Court in CM No. 5797-CWP of 2020 in CWP No. 598 of 2020 vide order dated 06.07.2020 required the Enquiry Officer to continue with the enquiries but final decision shall not be taken till the next date of hearing and that the stay of the Hon'ble High Court is still continuing though, now, it is 2025. I am unable to submit reports in all the three enquiries though, only arguments remain to be addressed by the PO and charged officer Sh. Harinder Singh, Additional RCS (since retired). I am mentioning this fact because it is evident from the letter that the application for information was given by Sh. Harinder Singh, Additional RCS, who is quite intelligent and well aware of the proceedings pending with me.

It is requested that the Hon'ble Commission may kindly be apprised the above mentioned facts.

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6. But the appellant contrary to the submissions made by Sh. B.C. Gupta, Additional District & Session Judge (Retired) has placed on record, a copy of Government instructions and the relevant portion of which is as follows:

ਨੰ: 3/54/91-2ਪੀਪੀ2/ਪ.ਫ.2013/ 216

ਪੰਜਾਬ ਸਰਕਾਰ
ਪ੍ਰਸ਼ਨਨ ਵਿਭਾਗ
(ਪ੍ਰਸ਼ਨਨ ਪਾਲਿਸੀ-2 ਬਾਖ਼ਾ)

ਸੇਵਾ ਵਿਖੇ
ਪੰਜਾਬ ਰਾਜ ਦੇ ਸਮੂਹ ਵਿਭਾਗਾਂ ਦੇ ਮੁੱਖੀ;
ਡਵੀਜ਼ਨਾਂ ਦੇ ਕਮਿਸ਼ਨਰ;
ਰਜਿਸਟਰਾਰ, ਪੰਜਾਬ ਅਤੇ ਹਰਿਆਣਾ ਹਾਈ ਕੋਰਟ,
ਚਿਲਕਾ ਅਤੇ ਸੈਸ਼ਨ ਜੱਜ;
ਪੰਜਾਬ ਰਾਜ ਦੇ ਸਮੂਹ ਡਿਪਟੀ ਕਮਿਸ਼ਨਰ ਅਤੇ
ਸਮੂਹ ਉਪ ਮੰਡਲ ਅਫਸਰ(ਸਿਵਲ)।

ਮਿਤੀ, ਚੰਡੀਗੜ੍ਹ: 22/11/19

ਵਿਸ਼ਾ:- ਪੰਜਾਬ ਸਿਵਲ ਸੇਵਾਵਾਂ (ਸਜਾ ਅਤੇ ਅਪੀਲ) ਨਿਯਮਾਵਲੀ, 1970 ਅਧੀਨ ਕੀਤੀ ਜਾਂਦੀ ਪੜਤਾਲ ਲਈ ਨਿਯੁਕਤ ਕੀਤੇ ਜਾਂਦੇ ਪੜਤਾਲੀਆ ਅਫਸਰ ਨੂੰ ਦਿੱਤੀ ਜਾਣ ਵਾਲੀ ਮਾਨਭੇਟਾ ਦੀ ਰਕਮ ਬਾਰੇ।

ਸ਼੍ਰੀਮਾਨ/ਸ਼੍ਰੀਮਤੀ ਜੀ,

ਉਪਰੋਕਤ ਵਿਸ਼ੇ ਦੇ ਸਬੰਧ ਵਿੱਚ ਮੈਨੂੰ ਆਪ ਦਾ ਧਿਆਨ ਇਸ ਵਿਭਾਗ ਦੇ ਪੱਤਰ ਨੰ: 3/54/91-2ਪੀਪੀ2/2609, ਮਿਤੀ 25 ਫਰਵਰੀ, 1999, ਪੱਤਰ ਨੰ: 3/54/91-2ਪੀਪੀ2/14527, ਮਿਤੀ 20 ਨਵੰਬਰ, 2000, ਪੱਤਰ ਨੰ: 3/54/91-2ਪੀਪੀ2/28268, ਮਿਤੀ 24.6.2009 ਅਤੇ ਪੱਤਰ ਨੰ: 3/54/91-2ਪੀਪੀ2/ਪ.ਫ.2013/12, ਮਿਤੀ 29.1.2015 ਰਾਹੀਂ ਜਾਰੀ ਹਦਾਇਤਾਂ, ਜਿਹਨਾਂ ਰਾਹੀਂ ਪੜਤਾਲੀਆ ਅਫਸਰ ਨੂੰ ਮਾਨਭੇਟਾ ਦੇਣ ਦਾ ਉਪਬੰਧ ਕੀਤਾ ਗਿਆ ਹੈ, ਵੱਲ ਦਿਵਾਉਣ ਅਤੇ ਇਹ ਲਿਖਣ ਦੀ ਹਦਾਇਤ ਹੋਈ ਹੈ ਕਿ ਸਰਕਾਰ ਵੱਲੋਂ ਬਣੇ ਗਏ ਨਾਲ ਵਿਚਾਰ ਕਰਨ ਉਪਰੰਤ ਮੌਜੂਦਾ ਮਾਨਭੇਟਾ ਦੀ ਰਕਮ 8000/- ਰੁਪਏ ਤੋਂ ਵਧਾ ਕੇ 10,000/- ਰੁਪਏ ਕਰਨ ਅਤੇ 1500/- ਰੁਪਏ ਇਕੋ ਹੀ ਪੜਤਾਲ ਵਿੱਚ ਹਰੇਕ ਵਾਧੂ ਚਾਰਜਡ ਅਫਸਰ ਲਈ ਦੇਣ ਦਾ ਫੈਸਲਾ ਕੀਤਾ ਗਿਆ ਹੈ ਬਸਰਤੋਂ ਕਿ ਕਿਸੇ ਵੀ ਇਨਕੁਆਰੀ ਵਿੱਚ ਮਾਨਭੇਟਾ ਦੀ ਰਕਮ 16,000/- ਰੁਪਏ ਤੋਂ ਵੱਧ ਨਾ ਹੋਵੇ।

2. ਇੱਕ ਪੜਤਾਲੀਆ ਅਫਸਰ ਨੂੰ ਇੱਕ ਕਲੰਡਰ ਸਾਲ ਵਿੱਚ 20 ਤੋਂ ਵੱਧ ਪੜਤਾਲਾਂ ਨਹੀਂ ਦਿੱਤੀਆਂ ਜਾ ਸਕਦੀਆਂ ਹਨ। ਜੇਕਰ ਅਲੱਗ-ਅਲੱਗ ਵਿਭਾਗਾਂ ਵੱਲੋਂ ਕਿਸੇ ਪੜਤਾਲੀਆ ਅਫਸਰ ਕੋਲ 20 ਪੜਤਾਲਾਂ ਤੋਂ ਵੱਧ ਪੜਤਾਲਾਂ ਪ੍ਰਾਪਤ ਹੋ ਜਾਂਦੀਆਂ ਹਨ ਤਾਂ ਪੜਤਾਲੀਆ ਅਫਸਰ ਦੀ ਜਿੰਮੇਵਾਰੀ ਹੋਵੇਗੀ ਕਿ ਉਹ ਹੋਰ ਪੜਤਾਲ ਪ੍ਰਾਪਤ ਨਾ ਕਰਨ।

3. ਇਹ ਪੱਤਰ ਵਿੱਤ ਵਿਭਾਗ ਦੇ ਐ.ਵਿ.ਪੰ.ਨੰ:21/159/2008-3ਵਿਪ2/249, ਮਿਤੀ 28.11.2019 ਰਾਹੀਂ ਦਿੱਤੀ ਪ੍ਰਵਾਨਗੀ ਦੇ ਸਨਮੁੱਖ ਜਾਰੀ ਕੀਤਾ ਜਾਂਦਾ ਹੈ।

4. ਇਹ ਫੈਸਲਾ ਪੱਤਰ ਜਾਰੀ ਹੋਣ ਦੀ ਮਿਤੀ ਤੋਂ ਲਾਗੂ ਹੋਵੇਗਾ। ਜਿਹੜੀਆਂ ਪੜਤਾਲਾਂ ਇਸ ਪੱਤਰ ਦੇ ਜਾਰੀ ਹੋਣ ਦੀ ਮਿਤੀ ਤੋਂ ਪਹਿਲਾਂ ਤੋਂ ਪੜਤਾਲੀਆ ਅਫਸਰ ਕੋਲ ਪੈਂਡਿੰਗ ਹਨ, ਉਹਨਾਂ ਤੇ ਇਹ ਵਾਧਾ ਲਾਗੂ ਨਹੀਂ ਹੋਵੇਗਾ। ਉਹਨਾਂ ਕੇਸਾਂ ਵਿੱਚ ਮਾਨਭੇਟਾ ਮਿਤੀ 29 ਜਨਵਰੀ, 2015 ਵਾਲੀਆਂ ਹਦਾਇਤਾਂ ਅਨੁਸਾਰ ਹੀ ਮਿਲਣਯੋਗ ਹੋਵੇਗਾ।

ਵਿਸ਼ਵਾਸਪਾਤਰ
(ਐਨ.ਡੀ.ਸਰਮਾ)
ਅਧੀਨ ਸਕੱਤਰ ਪ੍ਰਸ਼ਨਨ

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7. According to the submissions made by the appellant that no Inquiry Officer can be entrusted more than 20 inquiries in a Calendar Year and in case, according to the instructions dated 20.12.2019 referred to above, any Inquiry Officer, receipt more than 20 inquiries in a Calendar Year then it is the responsibility of the Inquiry Officer not to receive the same. Thereafter, the respondent requested for an adjournment in this case and also referred to the letters written to Sh. B. C. Gupta, Additional District & Session Judge (Retired).

8. Since, the mandate of the RTI Act, 2005, is transparency and accountability in the working of every public authority and to curb corruption and in accordance with Section 5 (4) of the RTI Act, 2005, Sh. B.C. Gupta, Additional District & Session Judge (Retired), was impleaded as a necessary party as the information sought is in the '**Larger Public Interest**'.

9. But the Counsel of Sh. B.C. Gupta, Additional District & Session Judge (Retired) appeared and requested for an adjournment and thereafter filed the written submissions and a copy of the same was handed over to the appellant during the course of hearing. The relevant portion of the submissions made by Sh. B.C. Gupta, Additional District & Session Judge (Retired) dated 26.03.2025 are as follows:

Kindly refer to endorsement 1/1055576/2025 dated 17.03.2025 sent by the Superintendent, Personnel-2 Branch on the subject noted above.

2. In this connection, I earlier also received letters dated 27.11.2024, followed by reminders dated 17.12.2024 and 20.12.2024 and a detailed reply was sent by me on 02.01.2025 (copy enclosed) informing that:-

"I was required by the Personnel Branch of the Personnel Department of the State of Punjab to supply this information to the Government, so that the same could be supplied to the Hon'ble Commission. It is not known as to when the original application was moved by Sh. Harinder Singh and what was the decision of that application against which an appeal has been preferred by him.

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The Right to Information Act was enacted by the Parliament for setting up the practical regime of Right to Information for citizens to secure access of information under the control of public authorities and for matters connected therewith are incidental thereto and that, in Section 2 of the Act, appropriate Government has been defined as Central or State Government and information means any material in any form including records, documents etc. as mentioned in Section 2(f) of the Act and public authority has been defined in Section 2(h) of the Act. The record has been defined in Section 2(i) of the Act and the Right to Information has been defined in Section 2(j) of the Act.

In Section 4 of the Act, public authority has been required to maintain record due catalogued and indexed in a manner as prescribed and only public authority as defined in Section 2(h) is required to maintain this record. As and when, an application is moved every public authority shall supply the information to the applicant within the prescribed period and only that information can be supplied which is not exempt under Section 8 of the Act.

I may bring to the notice of the Government that the undersigned after retirement was brought on the panel of Enquiry Officers to conduct enquiries under the Punishment and Appeal Rules, 1970 and these enquiries are entrusted to the Enquiry Officers in the panel by the punishing authority i.e. by the Administrative Secretaries or Heads of the Departments and the enquiries are required to be completed within a period of three months from the date of entrustment.

According to the letter dated 09.08.2017 issued by the Personnel Department, secretarial assistance as well as a place to conduct day to day proceedings/hearings in the enquiries shall be made available to the Enquiry Officers by the concerned department and the secretarial

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assistance includes stationary, computer, computer operator and all documents, so that no difficulty is felt by the Enquiry Officer in conducting the enquiry.

I may submit that under the Right to Information Act, 2005, the Enquiry Officer does not come within the definition of public authority and the information sought is not covered under the definition of information under Section 2(f) of the Act. Only in that information can be supplied which is covered under Section 2(f) of the Act and public authority is required to maintain the record as prescribed in Rule 2(f) of the Act. I have very carefully gone through the provisions of the Act and the Enquiry Officer who has retired from service does not come within the definition of public authority and that the information sought by Sh. Harinder Singh is also not covered under Section 2(f) of the Act.

I may submit that though the Enquiry Officers conduct the enquiries as and when entrusted by the punishing authority and after the completion of the enquiry, the whole original record is sent to the punishing authority along with the file and even, the original letter entrusting the enquiry is returned by the Enquiry Officer. It may be submitted that, no clerk, no peon, computer operator, computer stationary or any other article is provided to the Enquiry Officer by the Government and even, the pen/stationary etc. is used by the Enquiry Officer. As no secretarial assistance is provided to the Enquiry Officer and therefore, no record of the enquiries entrusted or decided by the Enquiry Officer is maintained. The whole record of the enquiries is available with the punishing authority and, therefore, I am unable to provide any information as sought by Sh. Harinder Singh, Additional RCS, Punjab.

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I have a vague memory that this information was also sought earlier 2-3 years back but, no such letter is available with me nor such information was supplied and hence, the Commission may kindly be informed accordingly. I may state that the Ld. Additional Chief Secretary, Punjab Co-operative Department entrusted three regular enquiries to the undersigned for conducting regular enquiries in respect of various allegations as contained in the charge-sheets on 30.10.2019, 16.12.2019, 30.10.2019. The evidence has been recorded in all the three enquiries and Sh. Harinder Singh has also submitted written defence version. However, the enquiry reports could not be submitted because the Hon'ble High Court in CM No. 5797-CWP of 2020 in CWP No. 598 of 2020 vide order dated 06.07.2020 required the Enquiry Officer to continue with the enquiries but final decision shall not be taken till the next date of hearing and that the stay of the Hon'ble High Court is still continuing though, now, it is 2025. I am unable to submit reports in all the three enquiries though, only arguments remain to be addressed by the PO and charged officer Sh. Harinder Singh, Additional RCS (since retired). I am mentioning this fact because it is evident from the letter that the application for information was given by Sh. Harinder Singh, Additional RCS, who is quite intelligent and well aware of the proceedings pending with me. It is requested that the Hon'ble Commission may kindly be apprised the above mentioned facts."

3. Keeping in view the fact that Mr. Harinder Singh had been harassing the undersigned by submitting applications to the Commission under the Right to Information Act for seeking the information to which he was not entitled to and I was not bound to supply this information being an Enquiry Officer, I submitted a detailed letter on 15.02.2024 to the Ld. Principal Secretary to Government of

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Punjab, Cooperative Department with a the Superintendent, PP-2 Branch (copy enclosed) and this letter was received in Personnel Branch on 19.2.25.

After narrating the complete facts, I made a request to the Id. Principal Secretary Cooperation to transfer the three enquiries entrusted to me sometime in 2019 to some other Enquiry Officer because I was feeling harassed by Mr. Harinder Singh charged officer.

4. I may submit that the Right to Information Act was enacted by the Parliament to set up the commissions and that the undersigned does not come within the definition of public authority and the information sought is not covered under the definition of Section 2(f) of the Act and, therefore, Harinder Singh could not ask this information from the undersigned nor the Commission could ask this information from the undersigned. The undersigned is not a party before the Commission.

5 I may submit that no secretarial assistance i.e. clerk, steno, computer operator, class-iv employee or even stationary etc. is provided to the Enquiry Officer and when a detailed representation was given to the Government, the Government issued letter bearing No. 3/54/91-2PP2/1040309/1 dated 09.02.2017 (copy enclosed) to the effect that –

“Secretarial assistance as well as a place to conduct day to day proceedings/hearings in the enquiry will be made available to the Enquiry Officer by the concerned department.”

6. In these circumstances that as and when an enquiry is entrusted, the enquiry file is retained by the Enquiry officer but no separate record regarding the institution or disposal etc. is maintained by the Enquiry Officer for want of clerical assistance nor a necessity to do so was felt.

7 It is, therefore, requested that the Commission may kindly be apprised of the above mentioned facts for such action as may be deemed fit, or the Commission may summon the undersigned if the law so permits so that I may make submission accordingly and satisfy the commission.”

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10. The respondent, Sh. B.C. Gupta, Additional District & Session Judge (Retired) also filed another written reply 09.07.2025 and the relevant portion of the same is as follows:

- “1. That the Ld. Chief Information Commissioner vide order dated 03.04.2025 impleaded the applicant as a necessary party being the custodian of the record and was required to appear before the Commission on 08.05.2025 failing which, bailable warrants would be issued against the applicant.
2. That in compliance of the order dated 03.04.2025, the present Application is being filed on behalf of the applicant for the deletion of the applicant as a party to the Appeal.
3. That the applicant served in the judicial department of the State of Punjab from 1977 till 2002 and retired as Additional District and Sessions Judge from UT Chandigarh in March 2002. Thereafter, the applicant served as a Member of the Consumer Court for a period of five years and as a faculty member at the Chandigarh Judicial Academy from 2007 to 2012. Subsequently, the applicant's name was included in the panel of Inquiry Officers for the State of Punjab.
4. That when an inquiry is entrusted to the applicant by the Competent Authority, the applicant conducts the inquiry and submits a report to the relevant department. However, the applicant is not entrusted as a State Officer and is not obligated to maintain any record of the inquiries conducted. No directions have been issued by the Personnel Department requiring the applicant to maintain such records, nor has any infrastructure been provided to facilitate record maintenance.
5. That the applicant was appointed as an Inquiry Officer to conduct three regular inquiries against Sh. Harinder Singh appellant the then Additional Registrar, Co-operative Societies, Punjab by the then Additional Chief Secretary to Government of Punjab vide order dated 16.12.2019 etc. and that, after the evidence of the PO was recorded and defence version was given by Sh. Harinder Singh, the enquiry reports could not be submitted by the undersigned

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because the Hon'ble High Court on the basis of writ petition No. 2020 in CWP No. 608 of 2020 passed orders on 06.07.2020 that the Enquiry Officer shall continue with the enquiry but the final decision shall not be taken. In view of this order, since 2020, the undersigned could not submit reports because of this interim stay of the Hon'ble High Court. It is true that on 04.06.2019, the Personnel Department required the undersigned to submit the number of enquiries marked by various departments from 01.01.2020 to 15.03.2020 and this information was supplied to the Government on 06.07.2020 that only four enquiries were entrusted to the undersigned during this period but this information could not be sought under the Right to Information Act and then if any application was filed by Mr. Harinder Singh in 2019 that stood disposed of. This information was supplied because the duration of information was for only three months but in the present case, the information again asked for is for a pretty long time and for the reasons mentioned in my reply to the Government sometime in 2020, no record is being maintained of the enquiries entrusted, disposed of for the detailed reasons mentioned in my detailed replies sent to the Government on 26.03.2025, 02.01.2025, copies of which have been supplied by the Personnel Branch and the same are in the record of this file and be read as part of this application.

6. That it is stated that the present application is being filed on behalf of the applicant without prejudice to his right to file the reply in the appeal including but not limited to the following grounds:-

A. THE APPLICANT IS NOT A 'PUBLIC AUTHORITY' AS DEFINED UNDER THE ACT.

- i. That the applicant is not a public authority within the meaning of Section 2(h) of the Act, which defines a public authority as any authority or body established or constituted by the Constitution, Parliament, State

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Legislature, or notification issued by the Government. The applicant, being a retired judicial officer, does not fall within this definition.

- ii. That the applicant's role as an Inquiry Officer was temporary and limited to specific assignments assigned to by the Government of Punjab. It is stated that such role does not confer upon the applicant the status of a public authority or an officer under the provisions of the Act.
- iii. That the applicant has already provided a detailed representation dated 26.03.2025 with copies of application dated 02.01.2025, clarifying that an Inquiry Officer cannot be deemed a public authority. The said representations are on record before this Hon'ble Commission and such representation remains unrebutted and further establishes that the applicant's inclusion as a party is unwarranted.
- iv. That the applicant is neither a public authority nor an officer of the Government for the purposes of the Act. Consequently, the inclusion of the applicant in the proceedings is contrary to the statutory framework of the Act.

B. THE APPLICANT IS NOT OBLIGATED TO MAINTAIN RECORDS UNDER SECTION 4 OF THE ACT

- i. That Section 4 of the Act, mandates public authorities inter alia to maintain and disclose records in a manner consistent with the Act's objectives. As the applicant is not a public authority for the reasons stated above, the applicant is under no such statutory obligation to maintain or provide records. It may be submitted here that a number

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of representations were submitted to the Government right from 2016 onwards to provide clerical assistance, stationary, steno, clerk, peon but the Government did not provide any assistance and even wrote letters on 25.02.1999 and 09.08.2017 that this assistance will be provided by the concerned department/PO and copies of the letters are enclosed as Annexure-A and B. As no clerical assistance was provided, as and when an enquiry is entrusted, it is conducted and the original record along with enquiry report returned to the department concerned and hence, neither any record was maintained by the undersigned nor undersigned was required to maintain the record nor there was any direction from the Personnel Department. However, when the undersigned was dragged in this case, after due consideration, I sent a detailed letter in June 2025 to the Government, copy enclosed as Annexure C making certain suggestions and requiring the Government to issue necessary instructions to the enquiry officers to maintain the record at pages No. 5 and 6 of this letter and such information should be kept by the enquiry officer for future and the said information also should be kept by the Personnel Branch as per performa attached with this letter, so that such like eventualities/harassment to the enquiry officers could be avoided for future.

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- ii. That the various representations had been made by the applicant to the Government and the Government did send the same to the Commission that enquiry officer is not the Custodian of the record nor he is Public Information Officer and cannot be construed as Custodian of the record as has been mentioned by the Commission in the order and hence, the name of the applicant be deleted.
- iii. That it also demonstrates that the applicant has no responsibility for the records in question and reinforces that their inclusion as a party to the present proceedings as unnecessary.

C. THE APPELLANT'S ACTIONS CONSTITUTE HARASSMENT AND PRESSURE TACTICS AGAINST THE APPLICANT

- i. That the appellant has been using the provisions of the Act as a tool to exert undue pressure on the applicant. It is evident from the fact that the applicant was appointed as Inquiry Officer for three inquiries based on chargesheets issued to the Appellant, which are presently stayed by the Hon'ble High Court.
- ii. That the inquiries against the appellant have been adjourned sine die due to the stay granted by the Hon'ble High Court. Despite this, the Appellant has continuously sought to harass the applicant by filing multiple applications and pursuing unwarranted proceedings, including the present Appeal.

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- iii. That the applicant, facing continuous harassment, has already requested the withdrawal of these inquiries through a letter dated 17.02.2025 addressed to the Principal Secretary, Co-operative Department with a copy to the Personnel Department and copy of this letter is enclosed as Annexure-D.

This further highlights the Appellant's misuse of the provisions of the Act to settle personal grievances.

- iv. That the Central Information Commission (CIC) has repeatedly observed that the Act should not be used as a means to harass or unduly pressure individuals. In this context, the present proceedings are a clear example of such misuse and the relief sought in this Application ought to be granted.

D. PROCEEDINGS UNDER THE RTI ACT ARE LIMITED TO PUBLIC AUTHORITIES

- i. That it is a settled principle of law that proceedings under the Act can be initiated only against the CPIO or deemed CPIO of a public authority. Thus, the provisions of the Act do not extend to private individuals or entities.
- ii. That the inclusion of private individuals in proceedings under the Act undermines the objective of the Act, which is to ensure transparency and accountability within public authorities, and not to target individuals acting in a limited or personal capacity.

E. INCLUSION AT THE STAGE OF SECOND APPEAL IS UNWARRANTED

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- i. That the applicant was not a party to the proceedings before the First Appellate Authority, and inclusion at the stage of second appeal is unwarranted and procedurally irregular.
- ii. That such inclusion, particularly in the absence of any substantial justification, serves no purpose other than to harass the applicant at the behest of the Appellant.
- iii. That the proceedings under the Act are intended to streamline access to information and not to complicate matters by adding unnecessary parties at advanced stages of the process.

F. INCLUSION OF A PRIVATE INDIVIDUAL DEFEATS THE SCHEME OF THE RTI ACT

- i. That the RTI Act does not envisage the inclusion of private individuals as respondents in proceedings under the Act. The statutory scheme is focused on ensuring transparency and accountability within public authorities.
- ii. That the inclusion of the applicant, who is a private individual, undermines the objective and purpose of the Act. Such inclusion creates an unnecessary and undesirable precedent that could lead to the misuse of the Act against individuals with no statutory obligations under it.
- iii. That the continued impleadment of the applicant as a party in these proceedings is inconsistent with the principles and objectives of the Act and serves no meaningful purpose.
- iv. That the applicant, a retired judicial officer who has dedicated decades of service to the judiciary and public

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administration, is now aged and facing unwarranted prejudice due to their inclusion as a party in these proceedings. The applicant has been unnecessarily dragged before this Hon'ble Commission despite having no statutory obligation under the Act to provide the information sought by the Appellant. This inclusion has caused undue stress, inconvenience, and reputational harm to the applicant, who has no role in the custodianship of the records sought. That the applicant is undergoing various types of ailments like heart,, blood sugar back problem and is under the treatment from PGI and record can be produced if considered necessary. It is therefore, requested that the applicant be relieved from appearing before the Commission to contest this application when the applicant is neither Custodian of the record nor that he has got any role to play.

- v. The present application is filed bona fide and for the ends of justice and grave prejudice and harm would be caused to the applicant in the event the present application is not allowed and would set an undesirable precedent, enabling private individuals to be unnecessarily entangled in proceedings under the Act, contrary to its objectives and scheme.

PRAYER

Whereof in the light of the submissions made hereinabove, it is most respectfully prayed that this Hon'ble Commission may be pleased to:

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- a) Delete the applicant, Sh. B.C. Gupta, Additional District & Sessions Judge (Retd.), as a party to the present Appeal, in the interest of justice; and
- b) Pass any such other and further reliefs that this Hon'ble Commission may deem fit and proper.

AND FOR THIS ACT OF KINDNESS THE APPLICANT AS IN DUTY BOUND
SHALL EVERY PRAY

11. However, the appellant filed the written submissions, the relevant portion of which is as follows:

1. That Shri B.C. Gupta, who is a retired Additional District and Session Judge, Punjab has filed the application under Order 1 Rule 10(2) read with Section 151 Civil Procedure Code, 1908 for deletion of his name from the array of parties on the ground that he is not a public servant within the meaning of Right to Information Act, 2005.
2. That the objection raised by Shri B.C. Gupta (Retd.) that he is not a public servant is misconceived, untenable in law and contrary to the provisions of the Indian Penal Code, 1860 and the Right to Information Act, 2005. The information sought pertains only to the number of inquiries conducted by him in a given year in light of the ceiling of 20 inquiries per annum. He is paid the remuneration by the Government for holding the enquiries. This falls squarely within the definition of "information" under Section 2(f) of the RTI Act, 2005.
3. That Shri B.C. Gupta, Addl. District and Sessions Judge (Retd.) has alleged that he has not kept the record of the number of enquiries conducted by him, which is a misstatement on his part. He has to keep the record of the enquiries for claiming remuneration. Government entrusts the enquiries by writing letters appointing him as Inquiry Officer. This record is in his possession. Then the payment is

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made by cheque or through NEFT/RTGS or deposited in his bank account. The remuneration received by him would clearly show for how enquiries he has received the remuneration in an year. He is an also income-tax payee. Therefore, he must be disclosing the income from the enquiries in his income-tax return. Therefore, the averment made by him that he does not keep the record is totally false and a lie on the part of a retired judicial officer. He must be keeping the record of income from other sources. It is submitted I have not asked the details of enquiries but only number of enquiries conducted by him during the period for which information has been sought.

4. That he has written that Government does not provide him the secretarial facilities for conducting the enquiries. Government provides him the room for conducting the enquiries in the Civil Secretariat-2, Sector 9, Chandigarh. Moreover, in case he is not being provided the facilities, then why he is holding the enquiries?
5. That Section 21 IPC defines "public servant." Explanation 12(a) states: "Every person in the service or pay of the Government, or remunerated by fees or commission for the performance of any public duty by the Government, is a public servant." Shri B.C. Gupta has been appointed under Rule 8(2) of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 to discharge the public duty of inquiring into charges against civil servants. He is remunerated by the Government for the same. Thus, he clearly falls within the meaning of public servant.
6. That Section 2(h) of the RTI Act defines public authority to include any body constituted by or under a Government order. Shri Gupta's appointment flows from a Government order under statutory rules. Section 2(f) of the RTI Act defines information to include material held

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in any form by or under the control of a public authority Government of Punjab, being the appointing and controlling authority, holds the details of the inquiries entrusted to Shri Gupta and remains accountable under RTI.

In light of the statutory provisions, it is prayed that the application may kindly be dismissed and the Appellate Authority may direct the disclosure of the information sought in the interest of transparency and accountability.”

12. Thereafter, Sh. B.C. Gupta, Additional District & Session Judge (Retd.) filed his counter submissions and the relevant portion of which is as follows:

REPLICATION ON BEHALF OF THE APPLICANT SH. B.C. GUPTA UNDER ORDER I RULE 10(2) READ WITH SECTION 151 OF THE CODE OF CIVIL PROCEDURE, 1908 FOR DELETION OF THE APPLICANT AS A PARTY TO THE APPEAL

MOST RESPECTFULLY SHOWETH:

1. That I submit the rejoinder to the written statement filed by Sh. Harinder Singh Sidhu and the various contents detailed in the said reply are incorrect. My para wise replication is as under:-

1. The contents of this para are admitted being matter of record.
2. The contents of this para are absolutely incorrect. The provisions of Indian Penal Code are not relevant to decide the application under the Right to Information Act and the respondent has tried to mislead the Hon'ble Commission. Since, the applicant is neither covered under the Right to Information Act nor is the custodian of the record as detailed in the application.

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3. It has been categorically mentioned in the application itself that the applicant did serve as Additional District Judge and conducted the enquiries as and when entrusted and the enquiries of Harinder Singh were also entrusted sometime in 2019 but reports could not be given because of the stay by the Hon'ble High Court.
4. When an inquiry is entrusted to the applicant by the Competent Authority, the applicant conducts the inquiry and submits a report to the concerned department. However, the applicant is not declared as a State Information Officer and is not obligated to maintain any record of the inquiries conducted. No directions have been issued by the Personnel Department requiring the applicant to maintain such records, nor has any infrastructure been provided to facilitate record maintenance. It may be submitted that Section 2(h) of the Act, which defines a public authority as any authority or body established or constituted by the Constitution, Parliament, State Legislature, or notification issued by the Government. The applicant, being a retired judicial officer, does not fall within this definition.

The applicant is neither a public authority nor an officer of the Government for the purposes of the Act. Consequently, the impleading of the applicant in the proceedings is contrary to the statutory framework of the Act.

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5. The contents of this para are denied and the provisions of Section 21 of the IPC are not relevant for the purpose of deciding the application for deleting his name.
6. The applicant does not come within the definition of public authority and that neither Mr. Harinder Singh nor the personnel department submitted an application to implead the applicant as a party but the Ld. Chief Commissioner suo moto impleaded the applicant as a party against the provisions of the Right to Information Act and Order 1 Rule 10 of CPC.

It may be submitted here that no reply has been filed by the Personnel Branch of the Government. A detailed letter was written to the Government on 28.03.2025 Annexure C along with proforma requiring the Government to issue directions to all enquiry officers to supply the information to the Personnel Branch with immediate effect but no action has been taken by the Personnel Branch so far nor reply of it has been filed with the result that, litigation before the Commission is bound to increase because any charged officer can submit an application to the personnel branch to supply information and the personnel branch will not supply the same unless, a particular direction is issued by the Personnel Branch to the Enquiry Officers. Even, in the fresh orders dated 19.07.2025 preparing fresh panel, and deleting the name of the applicant from the said panel, no direction

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has been issued by the Personnel Branch requiring the enquiry officers to submit the information month wise as suggested by the undersigned in the letter Annexure C submitted along with the application and if the Personnel Branch does not do so, the work of the Commission is bound to increase. It is further requested that the Personnel Branch be asked to submit a reply of the application submitted by the applicant before the Commission for deleting his name from the array of parties.”

13. Accordingly, the appellant filed the rejoinder to the replication filed by Sh. B.C. Gupta, Additional & Session Judge (Retired) and the relevant portion of which is as follows:

1. That the appellant has gone through the replication filed by Shri B.C. Gupta, retired Additional District and Sessions Judge, and the same is misconceived, incorrect and contrary to the statutory provisions of the Right to Information Act, 2005, therefore liable to be rejected.
2. That the preliminary objection raised by the applicant in the public replication that he is neither a public authority nor servant is factually incorrect and legally untenable. The applicant has been appointed by the Government of Punjab as an Inquiry Officer under the Punjab Civil Services (Punishment and Appeal) Rules, 1970 for conducting departmental enquiries and is paid remuneration from the State exchequer. Any person performing public duties on behalf of the Government and receiving remuneration for the same is accountable to the public authorities under the framework of transparency embodied in the RTI Act.

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3. That the applicant himself admits in the replication that he was entrusted with enquiries by the Government/Personnel Department. Once such enquiries are conducted pursuant to Government orders, the person conducting such enquiries performs public functions and cannot escape accountability by pleading that he is a private individual
4. That the contention of the applicant that he is not the custodian of the record is misleading. The information sought by the appellant pertains to the number of enquiries conducted by him in a particular period, which is a matter directly connected with the official work assigned to him by the Government. Such information is either available with him or can easily be disclosed by him without any prejudice to any proceedings. He is knowing as to for how many enquiries he has received the remuneration.
5. That the applicant has incorrectly stated that the provisions of the Indian Penal Code referred to in the reply are irrelevant. The reference to Section 21 IPC defining "public servant" was made only to demonstrate that a person performing public duties under authority of the Government and receiving remuneration therefor cannot avoid responsibility and transparency obligations.
6. That the reliance placed by the applicant on Order 1 Rule 10 CPC for deletion of his name from the array of parties is wholly misplaced. The presence of the applicant is necessary for effective adjudication of the appeal, as the information sought specifically relates to the enquiries conducted by him as an Inquiry Officer appointed by the Government of Punjab.

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7. That the applicant cannot simultaneously claim that he conducted enquiries under Government orders; he received remuneration from the Government; and yet he bears no responsibility to disclose the information relating to such enquiries. Such a stand is contradictory and contrary to the spirit of transparency and accountability envisaged under the RTI Act, 2005.
8. That the RTI Act is a beneficial legislation enacted to ensure transparency in the functioning of public authorities. The information sought by the appellant relates to public work performed under authority of the Government, and therefore the attempt made by the applicant to evade disclosure by seeking deletion from the array of parties is nothing but an attempt to defeat the object of the Act.
9. That the averments made in the replication which are contrary to the submissions made in the reply are specifically denied. The submissions made in the reply filed by the appellant may be treated as reiterated and reaffirmed.

PRAYER:

In view of the above facts and submissions, it is most respectfully prayed that the application filed by Shri B.C. Gupta under Order 1 Rule 10(2) CPC for deletion of his name from the array of parties may kindly be dismissed, and the appeal may be decided by directing disclosure of the information sought in the interest of transparency and accountability.

Any other order deemed just and proper in the facts and circumstances of the case may also kindly be passed.

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14. In light of the submissions made by the parties and in the interest of natural justice, a liberty was granted to the parties concerned to make their final submissions within 30 days. But no submissions have been received from the appellant but Sh. B.C. Gupta, Additional District & Session Judge (Retired) filed his written submissions dated 20.03.2026. The relevant portion of which is as follows:

BRIEF NOTE OF ARGUMENTS ON BEHALF OF APPLICANT-SH. BC GUPTA

The present proceedings, insofar as they concern the Applicant, are wholly misconceived and legally unsustainable. The impleadment of the Applicant as a necessary party vide order dated 03.04.2025 is contrary to the statutory scheme of the Right to Information Act, 2005, as the Applicant neither qualifies as a "public authority" nor bears any statutory obligation to maintain or furnish records. The proceedings arise out of a clear misuse of the provisions of the Act by the Appellant to exert pressure in collateral matters, despite the absence of any legal duty on the part of the Applicant. The continued impleadment of the Applicant would amount to abuse of process and cause manifest injustice.

I. Impleadment of the Applicant is contrary to the scheme of the RTI Act

The very foundation of impleading the Applicant as a necessary party is legally unsustainable and liable to be set aside.

1. That the Ld. Chief Information Commissioner vide order dated 03.04.2025 impleaded the Applicant as a necessary party being the custodian of the record.
2. That a detailed reply was submitted by the Applicant seeking deletion as a necessary party, however, the Applicant continues to be arrayed without any statutory basis.

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II. The Applicant is not a 'Public Authority' under the Act
The Applicant does not fall within the definition of "public authority" under Section 2(h) of the Act.

3. That the Applicant, being a retired judicial officer, is not a public authority within the meaning of Section 2(h) of the Act.
4. That the role of the Applicant as an Inquiry Officer was temporary and assignment-based, which does not confer the status of a public authority
5. That representations dated 26.03.2025 and 02.01.2025 placed on record clearly establish that an Inquiry Officer cannot be deemed a public authority and the same remain unrebutted.

III. The Applicant has no obligation to maintain records under Section 4 of the RTI Act.

The statutory obligation to maintain records is confined to public authorities and does not extend to the Applicant.

6. That Section 4 of the Act applies only to public authorities and thus no obligation arises upon the Applicant.
7. That despite repeated representations since 2016 seeking clerical assistance, no such assistance was provided by the Government, and letters dated 25.02.1999 and 09.08.2017 clarify that such support was to be provided by the concerned department.
8. That in absence of any support, enquiries were conducted and original records along with reports were returned to the concerned department and no record was maintained by the Applicant.

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9. That even thereafter, the Applicant addressed a communication in June 2025 suggesting guidelines for record maintenance, which itself demonstrates absence of any statutory obligation
10. That the Government has also clarified before the Commission that the Inquiry Officer is neither custodian of record nor a Public Information Officer.
- IV. Proceedings under the RTI Act are confined to Public Authorities
The Act does not contemplate proceedings against private individuals.
 11. That proceedings under the Act can only be initiated against the CPIO or deemed CPIO of a public authority.
 12. That inclusion of a private individual undermines the statutory scheme and object of the Act.
- V. Inclusion at the stage of Second Appeal is unwarranted
The impleadment of the Applicant at the stage of second appeal is procedurally irregular
 13. That the Applicant was not a party before the First Appellate Authority and inclusion at the stage of second appeal is unwarranted.
 14. That such inclusion serves no purpose except to unnecessarily harass the Applicant.
- VI. Inclusion of the Applicant defeats the object of the Act
The continued impleadment is contrary to the legislative intent and causes undue prejudice.

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15. That the RTI Act does not envisage inclusion of private individuals as respondents.
 16. The the applicant, a retired judicial officer aged above 83 years, has been unnecessarily dragged into proceedings despite having no statutory obligation.
 17. That the Applicant is suffering from multiple ailments including heart issues, diabetes and back problems and is under treatment at PGI, and the proceedings are causing undue hardship.
 18. That the Applicant is no more in the panel of an enquiry
- VII. Proceedings are a result of misuse of the Act and amount to harassment
- The present proceedings are being used as a tool of pressure.
19. That the Appellant has been misusing the provisions of the Act to exert pressure in relation to departmental enquiries initiated against him.
 20. That the said enquiries are presently stayed by the Hon'ble High Court and proceedings have been adjourned sine die.
 21. That despite the same, the Appellant continues to pursue unwarranted proceedings including the present appeal, clearly indicating misuse of the Act.
- VIII. Plea under Section 21 IPC is misconceived
22. That the contention that the Applicant is a "public servant" under Section 21 IPC is wholly irrelevant and cannot be imported into the RTI framework.

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- IX. The Applicant has no role in the present proceedings
23. That the Applicant is neither a public authority, nor a custodian of record, nor under any statutory obligation to maintain records.
24. That no request for impleadment was made by the Appellant or the State of Punjab and yet the Applicant has been arrayed as a party
25. That the Applicant is no longer functioning as an Inquiry Officer and a fresh panel has already been constituted, and the Appellant, if so advised, may agitate the matter before the Hon'ble High Court.
- X. Continuation of proceedings amounts to abuse of process
26. The present proceedings do not disclose any legal basis for impleadment of the Applicant and continuation thereof would amount to abuse of process and result in manifest injustice.

PRAYER

It is therefore respectfully prayed that in view of the facts and circumstances stated hereinabove, the present application may kindly be allowed and the name of the Applicant be deleted from the array of parties in the interest of justice.

15. Also, the response has been received from the Public Authority that the information regarding pending and completed inquiries are not available in the Personnel Department and the said information may be available with the departments concerned/Inquiry Officers concerned.

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Accordingly, the respondent clarified that according to the newly constituted panel of Inquiry Officers, a list of which has been issued on 19.08.2025, the name of Sh. B.C. Gupta, Additional District & Session Judge (Retired) is does not exist in the newly constituted panel of Inquiry Officers.

16. The Section 2 (f) of the RTI Act, 2005, provides:

“2. In this Act, unless the context otherwise requires,—

(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;

According to the information sought it falls under the Section 2 (f) of the RTI Act, 2005.

17. Now the issue before the Commission, is that

- i. Whether an inquiry officer is liable/responsible to provide the information to the respondent public authority.
- ii. Whether Inquiry Officer falls under Section 2 (h) of the RTI Act, 2005, and is a public authority
- iii. Whether the information sought can be supplied if in case (i) and/or (ii) is applicable.

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i. **Whether an inquiry officer is liable/responsible to provide the information to the respondent public authority.**

The personnel department recommending the names of the inquiry officer and a panel of the same is being circulated to all the departments. Sh. B.C. Gupta, Additional District & Session Judge (Retd.) was appointed by the Personnel Department as an Inquiry officer. Sh. B.C. Gupta, as revealed from the documents submitted by the parties, conducted the inquiries upto the age 83. Also, he is a retired judicial officer receiving the remuneration in lieu of the inquiries conducted against the bills submitted to the concerned departments whosoever assigned those inquiries. In case, the said officer is receiving the remuneration from the Government then he is also liable to pay the Income Tax.

It is appropriate to mention that the Government issued the notification in the year 2019 mentioning therein that no Inquiry Officer entrusted more than 20 inquiries in a Calendar Year and in case, according to the instructions dated 20.12.2019 referred to above, any Inquiry Officer, receipt more than 20 inquiries in a Calendar Year then it is the responsibility of the Inquiry Officer not to receive the same.

Also, there are chances that an inquiry officer has been entrusted the inquiry which may relates to embezzlement of funds etc. and receipt the original file from the department but after the completion of the inquiry, he is not maintaining the record is not tenable especially from the retired judicial officer who retired from the post of Additional District & Session Judge.

In light of the above, the request of Sh. B.C. Gupta is not sustainable that he is not maintaining the record.

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ii. Whether Inquiry Officer falls under section 2 (h) of the RTI Act, 2005, and is a public authority

Section 2 (h) of the RTI Act, 2005 provides:

2 (h) "public authority" means any authority or body or institution of self-government established or constituted—

- (a) by or under the Constitution;
- (b) by any other law made by Parliament;
- (c) by any other law made by State Legislature;
- (d) by notification issued or order made by the appropriate Government,

and includes any—

- (i) body owned, controlled or substantially financed;
- (ii) non-Government organisation substantially financed,
directly or indirectly by funds provided by the appropriate Government;

It is also appropriate to mention that the Government has issued an instruction dated **20.12.2019**, according to which an Inquiry Officer is liable to conduct an inquiries numbering 20 in a calendar year and in case he receives more than 20 inquiries in a calendar year then he is responsible to return back the said inquiries but in no case he is allowed to hold 20 inquiries in a calendar year. Also, the word 'Control' has been mentioned in the Section 2 (h) of the RTI Act, 2005, so before arriving at a conclusion the word controlled has to be defined to ascertain whether an inquiry officer is controlled by the public authority.

Admittedly, Section 2(h) (a), (b) and (c) is not applicable in this case.

Admittedly Clause 2(h)(d)(ii) of the Act are not attracted. However, Section 2(h)(d)(i) provides body owned, controlled or substantially financed and after the sentence there is a use of punctuation mark semicolon(;). A semicolon is used to separate different lists of items in a sentence. Further, a semicolon(;) can be used to separate two clause which means that

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2(h)(d)(i) and 2(h)(d)(ii) are different lists and has to be dealt with separately. Since, 2(h)(d)(ii) is not attracted on the respondents therefore, no cognizance is being taken in this regard. But in 2(h)(d)(i) the punctuation mark comma(,) has been used between the words body owned, controlled or substantially financed.

Before considering the word controlled", the punctuation mark Comma(,) has to be considered which has put in between the words body owned, controlled or substantially financed. For eg. if someone says that "Ramesh went to Britain, USA and Canada." it means he visited three places which are having their own identity and it cannot be read as one, as there is a use of Comma(.). A Comma(.) can be used to separate different sets of items mentioned in a sentence. It can also be used to separate two independent clauses that do not have coordinating conjunction linking them together.

The common pattern found in the sentence is that there is a punctuation mark comma (,) between one word and another word in the group signifying that each one of them is deemed to be a separate entity and all the words cannot be read together and the conjunction 'or' have been noticed above. Literally read, the conjunction 'or' between the words clearly divides the two words to use completely independent category of the second part. The first part is by itself complete and capable of operating independently. As such, the word 'controlled' mentioned under Section 2(h) (d) (i) is to be dealt with separately irrespective of the word „owned" and "substantially financed". Keeping in view the above, Section 2(h)(d)(i) has to be read as "by notification issued or order made by the appropriate Government, and includes any body "controlled" irrespective of the word owned or substantially financed as the said words has to be dealt with separately in accordance with the RTI Act, 2005 viz. a viz. its meaning.

As such, the word 'controlled' mentioned in Section 2(h)(d)(i) has to be considered in accordance with the provisions of the RTI Act, 2005, the mandate of which is to promote transparency and accountability in the working of every public authority and to curb corruption. The Act also helps in containing corruption in the government and work for the people in a

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better way. The aim of the Act is maximum disclosures minimum exemptions to achieve the mandate of the Act.

The word 'Control' means

1. Subject to government direction or oversight,
2. Have government-appointed regulatory bodies,
3. Required to comply with government policies or guidelines;
4. To have power and ability to make somebody/something do what you want;
5. To keep something within certain limit,
6. Regulated by law with regard to possession and use,
7. Control as a verb is to exercise one's power or authority over something or someone, to regulate or govern, or to have a controlling interest in
8. Control as a noun is the power to govern, manage, direct, or oversee something or someone.
9. Control means the possession, directly or indirectly of the power to direct or cause the direction of the management or policies of a person, whether through the ability to exercise voting power by contract or otherwise. _Controlling and Controlled have meanings correlative thereto

18. It is appropriate to mention an order passed by the Hon'ble Supreme Court of India Writ Petition (Civil) No. 436 OF 2018 Anjali Bhardwaj and others versus Union of India and others, relevant portion of which is as follows -

10) Much before the enactment of RTI Act, which came on the statute book in the year 2005, this Court repeatedly emphasized the people's right to information to be a facet of Article 19(1)(a) of the Constitution. It has been held that the right to information is a fundamental right and flows from Article 19(1)(a), which guarantees right to speech. This right has also been traced to Article 21 which concerns about right to life and liberty. There are umpteen number of judgments declaring that transparency is the key for functioning of a healthy democracy. In the matter of State of Uttar Pradesh v. Raj Narain a Constitution Bench of this Court held that:

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"In a government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can but few secrets. The people of this country have a right to know every public act, everything, that is done in a public way, by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearing. The right to know, which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary, when secrecy is claimed for transactions which can, at any rate, have no repercussion on public security To cover with veil secrecy the common routine business, is not in the interest of the public..."

11) S.P. Gupta vs. President of India and Others, a Seven-Judge Bench of this court made the following observations regarding the Right to Information:

"....The concept of an open government is the direct emanation from the right to know which seems to be implicit in the right of free speech and expression guaranteed under Article 19(1)(a) Therefore, disclosure of information in regard to the functioning of Government must be rule and secrecy an exception justified only where the strictest requirement of public interest so demands The approach of the court must be to attenuate the area of secrecy as much as possible consistently with the requirement of public interest, bearing in mind all the time that disclosure also serves an important aspect of public interest....."

12) We may also refer to the following observation from the judgment in the case of Reliance Petrochemicals Ltd. vs. Proprietors of Indian Express Newspaper, Bombay Private Limited and others:

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“....We must remember that the people at large have a right to know in order to be able to take part in a participatory development in the industrial life and democracy. Right to Know is a basic right which citizens of a free country aspire in the broader horizon of the right to live in this age in our land under Article 21 of our Constitution. That right has reached new dimensions and urgency. That right puts greater responsibility upon those who take upon the responsibility to inform....”

13) In Union of India and Another vs. Association of Democratic Reforms, this Court, while declaring that it is part of the fundamental right of citizens under Article 19(1)(a) to know the assets and liabilities of candidates contesting election to Parliament or the State Legislatures, also made following pertinent remarks:-

"The right to get information in democracy is recognised all throughout and it is natural right flowing from the concept of democracy....”

14) The Parliament sprung into action and passed Right To Information Act, 2005, which became effective from 12th October, 2005, persuaded by the message of this Court in its various judgments, outlining the importance of right to information that should be made available to the citizens of the country. After the RTI Act as well, this Court has been emphasising the importance of right to information. We may usefully refer to the judgment in the case of Reserve Bank of India vs. Jayantilal N. Mistry where a Two-Judge Bench of this Court while upholding peoples right to access information, made the following observations regarding the Right to Information.

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"Because an informed citizen has the capacity to reasoned action and also to evaluate the actions of the legislature and executives, which is very important in a participative democracy and this will serve the nation's interest better which as stated above also includes its economic interests. Recognizing the significance of this tool it has not only been made one of the fundamental rights under Article 19 of the Constitution also a Central Act has been brought into effect on 12th October 2005 as the Right to Information Act, 2005. "The ideal of 'Government by the people' makes it necessary that people have access to information on matters of public concern. The free flow of information about affairs of Government paves way for debate in public policy and fosters accountability in Government. It creates a condition for 'open governance' which is a foundation of democracy."

15) In an article by Alwin Toffler titled "What will our future be like?", he has traced the transition from agriculture society to industry society to knowledge based society. If we go back to the beginnings of time agriculture was the prime source and the entire mankind was based on agriculture. 350 years ago with the invention of steam engines came the industrialised age and now what we are living through is the third gigantic wave, which is way more powerful than industrialized age. An age that is based on knowledge. Knowledge in today's times can be gathered from so many sources. In digital age, it is available online. Since knowledge is power, getting information on any subject becomes equally important. In the Valedictory Address at the National Convention on Right to Information held on 15th October 2006, the then Prime Minister of India, Dr. Manmohan Singh, made the following pertinent remarks:

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"We live in an age of information, in which the free flow of information and ideas determines the pace of development and well being of the people. The implementation of RTI Act is, therefore, an important milestone in our quest for building an enlightened and at the same time, a prosperous society. Therefore, the exercise of the Right to Information cannot be the privilege of only a few."

16) The connect between information regime and development is succinctly brought about by Mr. M.M. Ansari, former Central Information Commissioner, in the following manner:

"Right to information (RTI) is harnessed as a tool for promoting participatory development, strengthening democratic governance and facilitating effective delivery of socio-economic services. In the knowledge society, in which we live today, acquisition of information and new knowledge and its application have intense and pervasive impact on processes of taking informed decisions, resulting in overall productivity gains.

People who have access to information and who understand how to make use of the acquired information in the processes of exercising their political, economic and legal rights become empowered, which, in turn, enable them to build their strengths and assets, so as to improve the quality of life. In view of this, almost every society has made endeavours for democratising knowledge resources by way of putting in place the mechanisms for free flow of information and ideas so that people can access them without asking for it. People are thus empowered to make proper choices for participation in development process.

The efforts made thus far to disseminate information and knowledge through the use of communication technologies such as print media, radio and television as well as internet, have yielded positive results. Sharing of information, for instance, about the new techniques of farming, health care

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facilities, hazards of environmental degradation, opportunities for learning and earning, legal remedies for combating gender biases, etc., have made significant contributions to the well-being of poor people

17) Mr. Ansari has, in the aforesaid article, ably demonstrated that RTI can be used as a tool, amongst others, to:

- (a) facilitate effective delivery of socio-economic services which may lead to poverty alleviation
- (b) create conditions for accountability of public servants and authorities insofar as effective implementation of social security and food security programmes are concerned it may include implementation of NREGA, mid-day meals for school children. integrated child development scheme, grant of food security and pension for the poor senior citizens, etc.
- (c) ensure that there is a proper and effective delivery of services under subsidised schemes like public distribution system and shelter for poor
- (d) promote participatory governance
- (e) empower of weaker sections and
- (f) aid environmental protection.

18) There is a definite link between right to information and good governance. In fact, the RTI Act itself lays emphasis on good governance and recognises that it is one of the objective which the said Act seeks to achieve. The RTI Act would reveal that four major elements/objectives required to ensure good governance are:

- (i) greater transparency in functioning of public authorities;
- (ii) informed citizenry for promotion of partnership between citizens and the Government in decision making process
- (iii) improvement in accountability and performance of the Government; and
- (iv) reduction in corruption in the Government departments.

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19) The right to information, therefore, is not only a constitutional right of the citizens but there is now a legislation in the form of RTI Act which provides a legal regime for people to exercise their fundamental right to information and to access information from public authorities. The very preamble of the Act captures the importance of this democratic right which reads as under:

“....democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed”

Sh. B.C. Gupta, Additional District & Session Judge (Retired) has also contended that no clerk, no peon, computer operator, computer stationary or any other article has been provided to the Inquiry Officer in addition to the non-providing of Secretarial Assistance, therefore, the request of the appellant is not maintainable but an Inquiry Officer has been appointed and has specifically been directed as per the Government instructions mentioning therein that no Inquiry Officer entrusted more than 20 inquiries in a Calendar Year and in case, according to the instructions dated 20.12.2019 referred to above, any Inquiry Officer, receipt more than 20 inquiries in a Calendar Year then it is the responsibility of the Inquiry Officer not to receive the same. Also, it is appropriate to mention that in case he was not given any adequate infrastructure/sect. assistance even though he is conducting inquiries that too at the age of 83, therefore, the submissions made by the Inquiry Officer, is not sustainable.

Furthermore, an Inquiry Officer(s) are being entrusted the inquiries related to civil matter and in the corruption cases etc., he has to keep each and every record related to these inquiries in a very systematic manner, failing which, he will be unable to establish the facts that the concerned files have been handed over to the departments concerned in addition for every completed inquiry he has to request the concerned departments to pay his remuneration.

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Further Section 8 (1) (j) of the RTI Act, 2005, provides:

“.....Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.”

In light of the above, it is evident that the Inquiry Officer is controlled by the Government, therefore, he falls under Section 2 (h) of the RTI Act, 2005.

iii. **Whether the information sought can be supplied if in case (i) and/or (ii) is applicable.**

Keeping in view the above, the request of the of Sh. B.C. Gupta, Additional District & Session Judge (Retired) is not sustainable and is hereby directed to supply the information to the appellant within 30 days from the issue of this order.

19. Since, the Punjab Government has issued the instructions to all the Inquiry Officers on 20.12.2019 mentioning therein that no Inquiry Officer will conduct more than 20 inquiries in a Calendar Year and in case, any Inquiry Officer received more than 20 inquiries in a Calendar Year then it is the responsibility of the Inquiry Officer not to receive the same, therefore, it is recommended to the **Chief Secretary, Punjab**, that the information sought must be compiled at least quarterly/half yearly/annually to ascertain that the instructions of the Government of Punjab are complied with by the Inquiry officer in letter and spirit.

20 As such this case is **disposed of & closed**.

Dated: 03.08.2026

(Inderpal Singh)
Chief Information Commissioner,
Punjab

CC:

Sh. K.A.P. Sinha, IAS
Chief Secretary, Punjab
Punjab Civil Secretariat -1,
Sector 1, Chandigarh

Sh. B.C. Gupta
Additional District & Session Judge (Retd.)
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