

MINUTES OF SIXTH MEETING OF FULL COMMISSION OF STATE INFORMATION COMMISSION PUNJAB HELD ON 13.01.2011 AT 12.30 P.M. UNDER THE CHAIRMANSHIP OF SH. R.I.SINGH, LD. CHIEF INFORMATION COMMISSIONER PUNJAB IN HIS OFFICE ROOM.

PRESENT:

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

Leave of absence was granted to Sh. P.K.Verma and Mrs. Jaspal Kaur State Information Commissioners.

In attendance :

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

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

Item No.1 Progress of court work (position as on 31.12.2010)

It was noted with satisfaction that 5522 Appeal / Complaint cases were disposed of during the year 2010 against fresh institution of 5101 cases. Consequently, as compared to the pendency of cases at the end of the year 2009, which was 1301 Appeal / Complaint cases, the pendency at the end of 31st Dec. 2010 came down to 880 cases. It is a healthy sign.

Pendency of old cases has also come down. Out of the total 34 old cases instituted prior to 2010, 16 cases have been decided, leaving a balance of only 18 cases. These 18 cases instituted prior to the year 2010 also need to be taken up on priority for disposal, except where the matter is pending in Hon'ble High Court.

Item NO.2 Defence of orders of the State Information Commission in the Higher Judicial Forums.

The Commission considered the agenda, the existing practice in the Commission and the observations of Hon'ble High Court of Karnataka at Bangalore in WP No. 7408/2006 (Poornapriya House Building Co-op Society Vs Karnataka Information Commission) and resolved that in cases where the Commission is impleaded as a respondent before any judicial forum, including Hon'ble High Court and Hon'ble Supreme Court, the Chief Information Commissioner may, where considered appropriate, take steps to suitably defend the Commission's judgments / orders / stand of the Commission. In particular, it was observed that the Commission may play an important role in cases involving question/s of law relating to RTI Act. Chief Information Commissioner, therefore, may decide if any individual case where Commission has been impleaded as a party should be defended by the Commission or not. The CIC may take assistance of the Legal Advisor of the Commission, where required. However, cases before the High Court / Supreme Court may be defended through the office of the Advocate General, Punjab.

Item NO.3 The Punjab State Information (Destruction of Judicial Record) Rules 2009.

The Commission noted that as per its earlier decision on 06.11.2009, the Destruction of Record Rules were approved by the Commission, in exercise of powers vested in the Commission under Section 15 of the RTI Act and there was no reference to any other Act, while approving the proposal. The RTI Act is a self contained code and the Commission exercises all powers for general superintendence, direction and management of the affairs of the Commission, including the way to manage its old record pertaining to Appeals / Complaint cases under the RTI Act.

The Commission resolved that the nomenclature of Punjab State Information (Destruction of Judicial Record) Rules 2009 shall be amended and substituted with the following words, "The Punjab State Information (Destruction of judicial Record) Office Order 2011". The word, 'Rules' wherever occurring in the said Destruction of Judicial Record Rules,2009 shall be deleted and it shall be substituted by the word, 'Office Order'. This change may be notified to all concerned, including the State

government and the Punjab State Information Commission (Destruction of Judicial Record) Office Order 2011 shall be implemented accordingly w.e.f. January 2011.

Item No.4 Charter of Demands.

The Commission noted the item.

Item No.5 (a) False News Item in the Tribune dated 02.12.2010 regarding purchase of tyres for the official cars attached with Information Commissioners;

(b) News Item appearing in the Tribune dated 24.11.2010 regarding discharge of its quasi-judicial functions under the RTI Act;

(c) Reference from Sh. Anil Vashisht, claiming to be Secretary of an Organization described as "RTI Activists' Federation" Punjab.

The Commission noted the item, for appropriate action.

Item No.6 Staff for the maintenance & up-keep of Judicial Records

Considering the urgent need for proper up-keep of the record relating to Appeal / Complaint cases decided by CIC / SICs, particularly the superannuated SICs and non-sanctioning of the additional staff by the State government till now, it was decided that one post of Reader of the superannuated State Information Commissioner/s may be retained by changing the nomenclature of the post from 'Reader' to "Reader (Records)" for the maintenance and upkeep of all old records pertaining to decided Appeal / Complaint cases under the RTI Act. Hopefully, in the mean time, government would clear the additional staff, for which proposal has been pending since long, so that as and when a new SIC is appointed, Reader would be available.

As regards the suggestion for the retention of personal staff, i.e. Private Secretary, Reader, Driver and Peon, of the State Information Commissioner/s who demit office at the end of their term/s, the proposal may be examined in detail by office and brought as an agenda item before the Commission.

Item No.7 Recommendations of SICs as per Section 25(3) (g) of the RTI Act for the Annual Report of the State Information Commission for the year 2010.

The Commission considered the issue and approved that the following observations may be incorporated in the Annual Report of the Commission:-

1. It is observed that very often junior officers are appointed as PIO in government departments, who are unable to discharge their functions effectively, leading to delays / harassment of the information seekers. It is, therefore, recommended that only senior officers should be appointed as PIOs.
2. Considering the pattern of cases being filed in the Commission, it is observed that an overwhelming number of cases are in the form of Complaints under Section 18 of the RTI Act. The number of Appeals filed in the Commission under Section 19 is very small, as compared to the Complaint cases. This shows that the First Departmental Appellate Authorities under Section 19 of the Act are either non-functional or these do not inspire confidence in the information seekers, who directly approach the State Commission, bypassing the 1st Appellate authorities in the State. The government needs to take effective steps to restore confidence in 1st Appellate Authorities so that people make use of this forum, rather than rushing to State Commission at Chandigarh.
3. The Punjab Right to Information Rules, 2007, as notified by the Punjab Government, contains some provisions which are contrary to the Right To Information Act, 2005. This has been pointed out in a number of judgments / orders passed by the Commission. However, so far the government has not carried out the required amendments, to bring the Rules in conformity with the Act. This needs to be done without further delay.
4. An important right conferred on the citizens by the RTI Act is to carry out inspection of works, including the right to take certified samples of material under Section 2 (j) of the Act. However, it is observed that so far the

government has not notified any procedure or other relevant details which may be observed, while taking certified samples of works, including the method of getting the samples tested etc. As a result, this important tool in the hands of the citizens to act as watch dog regarding government works / projects has virtually remained defunct. The government should notify enabling Rules / Procedures early and also give due publicity to these provisions of law.

5. It is strongly recommended that all Head of Departments and Secretaries to Government should regularly review the working of RTI Act within their respective Departments, with all concerned on a monthly basis. This would enable them to identify bottlenecks, if any, and take remedial steps.
6. The highly inadequate staff strength mostly outsourced from a private service provider, virtually puts the State Information Commission's administrative structure on an ad hoc basis. All existing posts in the Commission should be filled on regular basis, in regular government scales, to bring permanency to staff structure, besides ending low-wage contractual structure, which does not attract best talent.
7. The proposal for creation of additional posts pending with the government needs to be cleared early to provide the required manpower to the Commission.
8. Lack of proper infrastructure in the State Commission results not only hinders the work of the Commission, but it also causes inconvenience to the public. Till such time as the government provides an official building to house the Commission's Office, additional space required within the existing office needs to be hired early.
9. The Video Conference facility needs an independent court room with technical staff.

The SICs were requested to send further recommendations, if any, under section 25(3) (g) for the Annual Report for the year 2010, by 31st January.

Item NO.8 Status of Video Conferencing and funds under the Centrally Sponsored Plan Schemes.

a) The Commission was apprised that Video Conference facility has been installed by NIC in the Court Room No.1 and the Commissioners may make use of it. To begin with, it was decided that cases relating to Public Authorities with their head quarter in the three border Districts of Amritsar, Gurdaspur and Ferozepur may be taken up through Video Conference. Subsequently, as and when, adequate staff is made available, the facility will be extended to other Districts of the State.

It was also decided that the facility may be formally inaugurated in February, 2011, after due notification to parties to cases, whose consent may first be obtained for hearing of the cases through Video Conference.

b) The Commission was informed that an amount of Rs.1.00 lac was available under the "Centrally Sponsored Plan scheme on "Strengthening, Capacity Building and Awareness Generation for effective implementation of the RTI". The SICs were requested to send their recommendations under this scheme for utilization of the amount. Secretary, SICP was also directed to make sure that the available funds were utilized early.

Item No.9 Conveyance facility to SICs and CIC

The Commission noted that all the Information Commissioners had opted for deduction of charges, at the rates specified by government, from their monthly salary, for private use of official conveyance. The Information Commissioners are equated with Chief Secretary of the State, in terms of their entitlement to conveyance facility. Since there is no limit on the monthly consumption of fuel on Chief Secretary, no such limit is also being imposed on SICs.

The CIC has also opted for deduction of charges from salary at government rates for private use of vehicle. However, it may be mentioned that as per the provisions of Section 16 (5) (a) of the RTI Act, CIC has been equated with Election Commissioners, who in turn, are equated with Judges of Hon'ble Supreme Court. The State government has notified that, "The State Chief Information Commissioner shall be entitled to a staff car and 200 liters of fuel per month or the actual consumption of fuel, whichever is less. {As per Section 8 of the CEC and other ECs (Condition of Services Act, 1991 and Section 23 of the Supreme Court Judges (Salaries and Conditions of Service) Actm1958}"

The office is in touch with the Election Commission of India / Supreme Court of India to obtain details of the practices being followed by those institutions, regarding use of conveyance facility.

However, from the information received from the Punjab Law Commission, the office of Lok Pal, Punjab and The Punjab State Human Rights Commission, who have similar terms relating to conveyance facility as CIC, it appears that in the case of Chairman Law Commission, Lok Pal, Punjab and Chairman and Members of the State Human Rights Commission, no log book is maintained for use of official car for official or private purposes, so long as the limit of 200 liters of petrol per month is not exceeded.

Item No.10 Budget of the Commission for the year 2011-12.

The budget proposals were considered and approved for forwarding these to the State Government.

Other Items

1. It was decided that immediate steps may be taken for acquiring Generators /Inverters for both the buildings of the State Information Commission;

2. All the SICs who have given option should be provided wireless internet connection, in place of land connection.
3. Proposal to purchase Dragon Software was also considered. It was decided that the office should initiate steps for the acquisition of the software.

Meeting ended with a vote of thanks to the chair.