

OFFICE OF THE FIRST APPELLATE AUTHORITY

(Under the Right to Information Act, 2005)
State Environment Impact Assessment Authority, Punjab
O/o Directorate of Environment & Climate Change
MGSIPA Complex, Sector-26, Chandigarh-160019

Appeal No. 1 of 2021

IN THE MATTER OF:

S.S. Sehgal, Advocate
Chamber No. 20, Ground Floor
District Courts, Mohali
(Mobile No. 7986473433)

.... Appellant

Vs.

Assistant Public Information Officer
State Environment Impact Assessment Authority, Punjab
O/o Directorate of Environment & Climate Change
MGSIPA Complex, Sector-26, Chandigarh-160019

.... Respondent

Order No : 4923

Date of Order: 06.12.2021

ORDER

1. The Appellant has filed first appeal dated 15.11.2021 under section 19 (1) of the Right to Information Act, 2005 w.r.t information sought vide letter dated 19.08.2021 under RTI Act, 2005, which was duly received vide diary no. 464 dated 19.08.2021 by the Assistant Public Information Officer (APIO) (hereinafter referred to Respondent) of the State Environment Impact Assessment Authority, Punjab.
2. In the appeal, the Appellant has mentioned the main ground at point no. 2 that even after the lapse of statutory period of 01 month, no information has been supplied to him against his RTI application. Further, as per the point no. 3, information has been sought, free of cost as per the provision of RTI Act, 2005.
3. The Respondent (APIO) informed that in response to RTI application dated 19.08.2021 (RTI fee received on 25.08.2021), appellant was conveyed vide letter dated 4719 dated 01.09.2021 that as per the record of the office, no information is available.
4. The Respondent (APIO) explained the reason for not providing the information as sought by the appellant that record of SEIAA was kept at 03 locations viz partially at MGSIPA Office, Sector-26, Chandigarh, at the Regional Office of the PPCB, Mohali and at the Head Office of the PPCB, Patiala. The information was relating to the case file of grant of Environmental Clearance to Omaxe Chandigarh Extension Developer Pvt. Ltd long back in the year 2015 and at the time of replying to the appellant, the said file was not traceable in the record room.

Subsequently, Hon'ble NGT in OA No. 222/2021 (IA No. 166/2021) titled Sandeep Singh Vs. Union of India has passed an order dated 13.09.2021 vide which a 05-member Joint Committee comprising MoEF&CC, CPCB, SEIAA Punjab, PPCB and District Magistrate Mohali was constituted. In order to provide the record to the said Committee, all the above 03 locations (where old record was being kept) were searched extensively for locating the file of Omaxe Chandigarh Extension Limited pertaining to grant of

Environmental Clearance in 2015 and finally the said file was traced and provided to the said Committee.

5. The aforementioned Joint 5-member Committee conducted its 2nd meeting on 12.11.2021 in which the Appellant/Complainant as well as project proponent from M/s Omaxe Chandigarh Extension Developers Pvt. Ltd. were called for interaction. During the meeting, it was directed that conceptual plan submitted by M/s Omaxe Chandigarh Extension Developers Pvt. Ltd. at the time of obtaining Environmental Clearance for expansion of integrated Residential Township namely "Chandigarh Extension" in an area of 592.463 acres, shall be shared by SEIAA Punjab.

In the meeting, a copy of the conceptual plan of the project having an area of 592.463 acre was provided to the Appellant by project proponent of Omaxe Chandigarh Extension Developers Pvt. Ltd. and asked to compare the same with the record file of SEIAA, Punjab. Appellant was requested telephonically by the Respondent (APIO) to visit the office of SEIAA, Punjab and get a copy of the conceptual plan. However, Appellant has not visited the office of SEIAA, Punjab, so far.

6. M/s Omaxe New Chandigarh Developers Pvt. Ltd. was also informed vide email dated 22.11.2021 that information relating to the Environment Clearance granted to their Project in 2015 has been sought under RTI by the appellant and was asked whether the same may be provided to the Appellant under the provisions of Right to Information Act, 2005 or not. If not, a specific reason may be provided, within 07 days.
7. In response, M/s Omaxe New Chandigarh Developers Pvt. Ltd. vide letter dated 26.11.2021 objected to the supply of this information under the RTI to the appellant on the following grounds:

- (i) That the applicant has sought the information which falls under the definition of Third-Party Information and therefore, should not be provided to the appellant.
- (ii) That the information sought is related to the documents which were submitted by the company to SEIAA office for the limited purpose of obtaining Environmental Clearance. The information includes the documents which the company does not want to share with anyone else as it pertains to the assets of the company and the Mega Project Plans which are internal matter of the company and relates to its future course of action. The information pertains to the larger trade interests of the company which can be exploited by the business rivals to the detriment of the company. The information demanded was supplied to SEIAA was in fiduciary relationship and should not be shared. Therefore, the company objects to the supplying of this information to the applicant.
- (iii) That under section 8 (d) and 8(e) of the Right to Information Act, 2005, the information sought by the applicant is exempted from disclosure. The relevant extract of section 8 is reproduced below for ready reference: -

Section 8 of RTI Act, 2005

(d) Information including commercial confidence, trade secrets or intellectual property, the disclosure of which harm the competitive position of third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;

(e) Information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information.

8. After hearing the Respondent (APIO) on 03.12.2021 as above, examining the appeal of Appellant submitted on 15.11.2021 and reply of M/s Omaxe New Chandigarh Developers Pvt. Ltd., First Appellate Authority decided as under:
- (i) Information sought by the Appellant be refused due to the following reasons:
- a) that information relates to the third-party M/s Omaxe New Chandigarh Developers Pvt. Ltd. which has objected to supply of the information to the Appellant vide letter dated 26.11.2021.
 - b) that Environment clearance in respect of which the information is being sought was granted long back in year 2015. Appellate Authority is not satisfied that case of "larger public interest" warranting the overriding of Sections 8(d) and 8(e) of the RTI is made out in this case; more so as M/s Omaxe have objected to the supplying of the information.
- (ii) Conceptual plan submitted by M/s Omaxe Chandigarh Extension Developer at the time of obtaining Environment Clearance dated 25.03.2015 be provided to the Appellant, since Joint Committee constituted by the Hon'ble NGT in its meeting held on 12.11.2021 has specifically desired that the same may be shared with the Appellant/Complainant.

The appeal is accordingly dismissed.


06/12/2021

(Hardeep Singh Gujral)
First Appellate Authority-cum-
Chairman, SEIAA

Copy to:

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3. Directorate of Environment & Climate Change- For publishing on the website of
Department.
