



Jammu and Kashmir State Information Commission
(Constituted under The Right to Information Act, 2009)
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File No. SIC/K/SA/57/2015
Decision No. SIC/K/SA/57/2015/58-A

Appeal in the case of:

Title: Mukhtar Ahmad Wadoo v/s PIO— SDPO Awantipora

Present: 1. Shri Parvaiz Ahmad SDPO/PIO, Distt. Police Awantipora
2. Appellant— Not present

Srinagar
05.08.2015

Brief facts of the appeal are that Mr. Mukhtar Ahmad Wadoo, a resident of J&K, home town Soura, Srinagar and presently working at Rajah Mundry, Andhara Pradesh made a request for information under J&K RTI Act, 2009 through registered post dated: 03-11-2014 addressed to PIO, District Police Office, Awantipora, Kashmir, stating in brief that One Ishtiyah Hussain of Upper Tral, District Pulwama, Kashmir married Dr. Ratooba Shaheen D/o Abdul Karim Munshi R/o Tawheedabad, Bemina, Srinagar and reportedly deserted her just after seven days of wedding. The said Dr. Ratooba reportedly had filed a complaint in the J&K State Commission for women and side by side in the Office of the Superintendent of Police, Awantipora, Kashmir and in the court of 2nd Additional Munsif, Srinagar for resolution. It is further stated that meanwhile, said Ishtiyah Hussain conducted a deceitfulness second marriage with daughter of

appellant Dr. Saphya Mukhtar on 25-03-2006 at Hyderabad without disclosing the facts of his first marriage with Dr. Rotooba. The said deceitfulness bigamy has now reached to the level of divorce, wherein the Ishtiyaq Hussain is denying the rightful divorce settlement to the daughter of the appellant.

Therefore, he has sought information in any form available in the records of the police either at Tral Police Station Level or at Police District Level or from any concerned Public Authority regarding the case of Dr. Ratooba, her divorce and divorce settlement and other related matters to support the case of rightful divorce settlement of daughter of the appellant from Ishtiyaq Hussain.

Thereafter, a first appeal has been filed addressed to Additional Superintended of Police (Appellate Authority), District Police Office, Awantipora, Kashmir on 20-01-2015, stating that the request for information dated: 03-11-2014 has been decided by the PIO vide his order 01-01-2015, which has been received on 16-01-2015. The first appeal has been filed on the ground that decision of the PIO dated: 01-01-2015 is totally incorrect on the plea that a copy of document from District Police Office, Awantipora clearly shows that Dr. Ratooba filed a complaint at Police Station, Tral and the case was not finalized till 05-03-2007.

The Commission received a 2nd appeal on 09-06-2015 from the appellant against the order of PIO dated: 01-01-2015. Appellant has submitted that order of the PIO dated: 01-01-2015 is totally incorrect and misleading, submitting further that copy of the document from District Police Awantipora clearly shows that Dr. Ratooba had filed a complaint at Police Station, Tral against Mr. Ishtiyaq Hussain and the case was not finalized till 05-03-2007 due to absence of Mr. Ishtiyaq Hussain and his family members. Appellant has also referred to another document dated: 08-03-2007 from the then Chief Minister's Secretariat, J&K which reportedly indicates that the case of Dr. Ratooba was pending with the Superintended of

Police. On the basis of above document, the plea of the appellant is that information requested is available with the Awantipora Police District. In view of the above statements, appellant has sought information in any form available at Police Station, Tral and at District Police Office, Awantipora regarding the case of Dr. Ratooba, her divorce and divorce settlement by Ishtiyaq Hussain and other related matters to support the case of rightful settlement and justice to appellant's daughter in the Hon'ble Court of Rajahmundry, Andhara Pradesh.

In the counter reply / statement of facts to the appeal, Mr. Parvaiz Ahmad, SDPO/PIO, District Police Office, Awantipora has submitted that in response to the application of the appellant dated: 03-11-2014, it was intimated to the information seeker vide communication dated: 01-01-2015 that report from Police Station, Tral reveals that no complaint was lodged by Dr. Ratooba, first wife of one Ishtiyaq Hussain Baba S/o Mohammad Shafi Baba R/o Upper Tral with the Police Station Tral as per the records of the said Police Station. Thereafter, a copy of the application/ appeal was received at the office of the respondent and in response to the said application, he was informed vide communication No. 1928 dated: 13-04-2015 that the letter / communication allegedly shown to have been issued by P.A. to Superintendent of Police, Awantipora during March, 2007 is not official correspondence of Police District Awantipora and has been issued by some person in his personal capacity and no such communication / letter is forthcoming from the records of Police District, Awantipora. That as a counter statement, PIO has submitted at the cost of repetition that the letter allegedly shown to have been issued by P.A. to Superintendent of Police, Awantipora during March, 2007 is neither correspondence of Police District Office, Awantipora nor is existing in the records of the said office and the said letter has been issued by some person in his personal capacity. Moreover, it is also submitted that reports and records of Police Station, Tral also reveals that no complaint has been lodged by Dr. Ratooba, first wife of

One Ishtiyaq Hussain with the said Police Station. The letter of the then CM Secretariat is also not evidencing or substantiating pendency of complaint or case with Police District Office, Awantipora as it is merely mentioned in the said letter that “*the case is pending with the Superintendent of Police and also in the court of Judicial Magistrate First Class, Srinagar.*” It is nowhere mentioned in the said letter that with which Superintendent of Police, the case was pending.

The appellant, in response to Commission’s notice dated: 24-06-2015, has submitted vide his letter dated: 20-07-2015 that he is physically handicapped and for reason of road accident, being restricted for movement. As such, he is not in a position to make his personal appearance before the Commission, nor he had any reliable person who could be authorized by him to attend Commission on his behalf. However, he has stated that he has full faith in the office of the Commission in taking the justified decision in the aforesaid appeal.

As per records brought before the Commission, it is found that PIO has disposed of RTI application on 01-01-2015 informing the appellant that no complaint has been found in the records of Police District Office, Awantipora as per available records. This information has been received by the information seeker as admitted by him. Thereafter, first appeal has been filed, addressed to Additional Superintendent of Police (FAA), Awantipora on 20-01-2015. However, PIO, during the hearing submitted that there is no post of Additional S.P. in District Police Office, Awantipora and therefore appeal was not filed before the designated FAA. Commission confirmed from the District Police Office, Awantipora that SSP, Awantipora is the next higher officer to PIO and therefore he is the designated FAA, as per section 16(1) of the J&K, RTI Act, 2009. However, SDPO Awantipora/PIO has responded to this appeal vide his letter dated: 13-04-2015 and informed the appellant that the letter enclosed with the appeal is not official correspondence of Police District, Awantipora and has been signed by some

person in his personal capacity and there is no record available in this regard in the District Police Office, Awantipora. This has again been reiterated by PIO in his counter statement.

The appellant has based his appeal and alleged wrong information on a communication signed by P.A. to Superintendent of Police, Awantipora. However, this communication has been denied by the SDPO/PIO vide his letter dated 13-04-2015 and also in the counter statement filed before the Commission.

As per definition of information under J&K RTI Act, 2009 under Section 2(d), “information means any material or record available in any form which can be accessed by a public authority”. Further, as per section 2 (1)(i), Right to Information means “information which is accessible under the Act and which is held or under the control of a public authority.” In the instant case, PIO has expressly stated both in his response to the RTI application, in response to the first appeal and in the counter statement filed before the Commission that the letter signed by P.A to SP Awantipora is not an official correspondence of the Police Department, Awantipora and no such letter is forthcoming from the records of the Police Department, Awantipora. The Commission has also found that the letter signed by PA to SP Awantipora and produced by applicant as evidence is without any reference No. and date, nor it is marked or addressed to anybody, on the basis of which this letter could be traced from the records of the Police department and its authenticity ascertained. The signatory P.A. has not identified his name or the authority on whose directions this letter has been issued and to whom?

The Commission has further noted that even before filing of Second appeal dated 19.05.2015, PIO vide letter Dated 13.04.2015 informed the appellant that letter enclosed with the RTI application dated 3.11.2014 is not an official correspondence of Police District Awantipora and is not available in their office. However, the appellant has not substantiated the authenticity

or the source of letter of PA to SP Awantipora, on which Second Appeal is based.

So far as letter from the then C.M. Secretariat is concerned, it is nowhere mentioned as to with which superintendent of Police the case is pending . Therefore, no information could be traced merely on the basis of a statement which has no reference.

In view of facts of the case explained herein above and on the basis of records placed before the Commission, the Commission is of the considered view that information as available on record has been provided and appellant stands intimated accordingly. Further, the Commission has observed that the communication relied upon by the appellant is a letter signed by PA to SP, which has been denied by PIO. Therefore, the Commission deems it proper to ask SSP Awantipora to hold an enquiry into the matter and take suitable action under law under an intimation to the Commission.

Sd/-
(Nazir Ahmed)
State Information Commissioner

Copy to the:

1. SSP Police District Awantipora
2. SDPO Awantipora
3. Sh. Mukhtar Ahmad Wadoo Door No.11-93/! Aditya Nagar Nedar Morampudi Junction, Hukumpeta Post, Rajahmundry, Andhra Pradesh.

(G Q Bhat)
Registrar
State Information Commission
Srinagar