



Jammu and Kashmir State Information Commission
(Constituted under The Right to Information Act, 2009)
Wazarat Road, near DC Office Jammu, 0191-2520947, 2520937
Old Assembly Complex, Srinagar, 0194-2506660, 2506661
www.jksic.nic.in

File No. SIC/K/Comp/19/2015
Decision No. SIC/K/Comp/19/2015/59

Complaint in the case of:

Title: Syed Naqi Shah v/s Executive Engineer, I&FC Sumbal

Present: 1. Qazi Jeelani, PIO.
2. Syed Naqi Shah, complainant.

Srinagar
06.08.2015

The Commission received a communication from Syed Naqi Shah r/o Inderkote stating that he applied for information under RTI Act, 2009 to Executive Engineer I&FC Division Sumbal under proper procedure on 17.4.2015, but they failed to provide such information, inspite of reminder dated 19.5.2015 with copy to Chief Engineer/Superintendent Engineer. As such he has requested to take action against defaulting Xen so that information is provided.

The Registry of the Commission observed some deficiencies in the Communication of complainant, which were communicated to him on 22.6.2015. The reply of the complainant has been received on 30.6.2015, wherein it is stated that he had sought information from PIO but till date nothing has been done. He has requested the Commission that action under rules may be taken against the PIO/Executive Engineer and relevant papers provided to him.

As per documents bought before the Commission, RTI application has been received by PIO on 19.05.2015 seeking transfer order copies of JE Gh. Hassan Bhat, details of approves of departmental works during 2014-15 under SDRF and allotments/expenditure head wise alongwith voucher parts. This RTI application has been responded to by PIO/AEE I&FC Sumbal on 13.6.2015 by providing information comprising of one leaf in response to part 1 of the RTI application. With regard to part 2, PIO has informed the information seeker that this information pertains to sub-division I&FC Sumbal and with regard to part 3, information seeker has informed that the information is treated as confidential.

In compliance to the notice of the Commission dated 14.7.2015 seeking reply/counter statement, Xen I&FC Sumbal filed reply dated 29.7.2015 admitting receipt of RTI application on 17.4.2015. That on 11.6.2015 his

office wrote a letter to the RTI applicant for some clarification and obtaining the available information. The RTI applicant in response to this letter clarified the point 3 of the application but refused to take the available information claiming the complete information in one go. That on 13.6.2015 his office furnished para-wise reply to the RTI application advising the applicant therein to visit the Accounts Section of the Division to see the information sought. The applicant accordingly visited the Accounts Section but nothing came through. That on 23.6.2015 the RTI applicant again demanded the information, on which the Accounts Officer of the Division replied that the information could not be provided as it involves third party. That on 11.7.2015 the applicant against intimated his office for providing information and same is kept ready by the AAO other than those of confidential nature. In conclusion he has stated that the notice received from State Information Commission Srinagar on 24.7.2015 also placed on record, a copy of which was forwarded to PIO I&FC Division Sumbal. That the complete case with relevant documents, correspondence are available as documentary evidence to the case summary furnished.

The complainant during hearing submitted that in respect of part 1 of the information, one transfer order copy of JE Gh. Hassan has been provided while as the said Engineer has been transferred to Sumbal two to three times

prior to this order. At para 2 & 3, complainant has sought details of approval of departmental works executed by the division under SDRF during 2014-15 and allotments/expenditure head wise alongwith voucher parts respectively. PIO has denied this information citing confidential.

At para-1, PIO is directed to provide orders of transfer of JE prior to the one provided to the complainant. At paras-2&3 the complainant has sought information regarding developmental works and therefore this information could not be treated as confidential by any stretch of imagination. It therefore appears that under garb of 3rd party information, PIO tried to conceal information regarding developmental works. The Commission has noted that while information sought at para-2 is specific to SDRF for year 2014-15, the information sought at para-3 is not specific. It is therefore implied and also accepted by complainant that information sought at para-3 is in respect of SDRF works for year 2014-15.

In view of above observations, PIO is directed to respond to these two points of the RTI application as per records within two weeks.

PIO produced copy of letter dated 29.7.2015 whereunder he has directed the complainant to deposit an amount of Rs. 4900/- on account of 2450 pages of information. Since PIO has failed to respond to the RTI application within

prescribed period of 30 days, the information seeker is entitled to information free of cost.

The complainant Syed Naqi Shah admitted candidly that he is a contractor working in the Division and that he filed RTI application because he was not allotted any departmental works on approval. He alleged irregularities in execution of works and submitted that hardly any tenders are invited in I&FC Division Sumbal and all works are done departmentally, even though there are government instructions for e-tendering of works.

From the statement of complainant made before the Commission, it is obvious that he has taken recourse to RTI Act because he did not get departmental works on approvals for his personal benefits. It is likely that he may not peruse the matter further, even if irregularities are found in the information provided to him, if his interests are served. Therefore, the Commission deems it appropriate to request the State Vigilance Commission to take notice of this complaint and take appropriate action in the matter.

Since RTI application has been disposed/responded to beyond mandatory time of 30 days as per the Act, PIO is directed to explain as to why penalty proceeding under Section 17 of the Act shall not be initiated against for this delay. His explanation, if any, alongwith compliance to above

directions, should reach the Commission within three weeks from issue of this order.

With the above directions the complaint filed before the Commission is disposed of.

Sd/-
(Nazir Ahmed)
State Information Commissioner

Copy to the: -

1. Secretary J&K State Vigilance Commission, Srinagar.
2. Executive Engineer, Irrigation & Flood Control Division, Sumbal.
3. Syed Naqi Shah s/o Syed Sadiq Shah r/o Inderkote Sumbal.

(G.Q. Bhat)
Registrar,
State Information Commission