



**Jammu and Kashmir State Information Commission**  
(Constituted under The Right to Information Act, 2009)  
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File No. SIC/K/SA/63/2015  
Decision No. SIC/K/SA/63/2015/86

Appellant : Vinod Kumar  
Respondent : PIO/IRP IIIrd BN, Parihaspura.  
Date of hearing : 24.08.2015  
Date of decision : 18.09.2015

01. Brief facts of the case are that Sgct. Vinod Kumar No. 690/12<sup>th</sup> BN Mattan Anantnag filed Second Appeal on 30.06.2015 before the Commission under J&K RTI Act, 2009 on stating that appellants sought certain information from PIO IRP 3<sup>rd</sup> BN (Parihaspura) on 07.03.2015 (copy enclosed). That PIO has now supplied the information vide letter dated 11.04.2015 received by him on 22.04.2015, but the information provided is misleading and the PIO has tried to keep certain things behind curtains.

02. That at Point A, pay bills of IRP 3<sup>rd</sup> BN for the months of January-June & December 2014 and January-February 2015 has been sought. This has been responded by the PIO stating that the information asked with regard to pay bills is entirely fiduciary and personal, as such can't be supplied as provided under Section 8(1) sub-clause (e) & (i). This has been contested by the appellant by submitting that pay bills of any Department have nothing to do with the fiduciary relationship of any employee. On the other hand there is no invasion of privacy of any individual if these pay bills are provided. It is averred that fact PIO is deliberately not providing him these pay bills as huge loss to Government exchequer has already been caused by these people by drawing certain allowances at higher rates which are not applicable to them.

At Point B, he has requested to communicate at what rate HRA of Hqr. Coy officials of IRP 3<sup>rd</sup> BN has been drawn during above months; In reply to this point the officer has mentioned that reply to this part may be treated as same as has already been supplied vide para (B) of this office information dated 14.03.2015. This information has been contested by the appellant submitting that in his earlier application, request was made to provide information in respect of few officials of IRP 3<sup>rd</sup> BN and in his

instant application request has been made to provide information of whole “Hqr” Copy of IRP 3<sup>rd</sup> BN as there are more than 100 officials in that Coy.

At Point C, the names of G.O’s to whom HRA at the rate of 20% has been paid with their assignment during these months has been sought. In reply to this point, PIO has mentioned that names of G.O.s cannot be supplied to security reasons. However, all those GOs performing duties with the Coys deployed in the operational area of Srinagar are being paid HRA @ 20%. The appellant has contested that PIO is not providing names of G.O.s only due to the reason that he himself is a G.O. and he has not asked for service particulars of these officers. That while replying at Point No. D, the officer has communicated the names of other Police personnel who are working as Pay clerk, Accountant, Cashier etc. and in which case the officer has not cited any security reasons.

At Point E, he requested that if the same (HRA) has been drawn @ 20%, then a copy of Govt. order as per which HRA @ 20% is applicable at Parihaspura be provided, but in reply the PIO has provided a copy of SRO 226, which has no relevance with the information sought.

The appellant further submitted that the appellant preferred First Appeal before Commandant/FAA of IRP 3<sup>rd</sup> BN sent through Registered Post on 16.05.2015 but till date the officer is mute over the issue only due to

fact that the senior officer posted in IRP 3<sup>rd</sup> BN in hobnobbing with some other staff members posted in main office of IRP 3<sup>rd</sup> BN and are drawing certain allowances at higher rates, which are not applicable at Parihaspura.

Keeping in view the above facts, the appellant has requested the Commission to entertain his appeal as he has to approach Crime Branch of Police for embezzlement by senior Police officers.

03. In his response to the notice of the Commission, PIO IRP 3<sup>rd</sup> BN has filed para wise reply which are summarized as under: -

i) PIO admitted receipt of RTI application dated on 16.03.2015 and the information made available by controlling officer in his office was provided to the appellant vide office letter dated 11.04.2015 (Annexure A).

ii) That appellant has concealed certain facts that in the past, appellant sought similar nature of information vide letter dated 31.05.2014, to which the information was provided to him vide office letter dated 28.06.2014 (Annexure B & C), to which he did not objected to or preferred an appeal against .

iii) That the appellant has also concealed the fact that he had submitted a similar nature of application to the treasury officer sub-treasury Pattan, who had endorsed the same to Commandant IRP 3<sup>rd</sup>

BN for further disposal with specific mention that instruments presented at treasury for payment are forwarded in original to Audit Office along with monthly account and has shown inability to provide any information as demanded by the appellant (Annexure D), to which appellant has not objected to or preferred an appeal against.

iv) That the appellant has also concealed the fact that he had moved a similar nature of application received in the unit on 16.2.2015, to which the information made available by controlling officer as provided to him vide office letter dated 14.03.2015, to which appellant did not objected to or preferred an appeal against.

v) That appellant has time and again asked for similar nature of information and has preferred a time bared appeal to FAA against information sought vide application dated 7.3.2015, which has been turned down on technical grounds vide order dated 27.06.2015 being time bared (Annexure F).

vi) In reply to Para-2, he has submitted that pay bills of IRP 3<sup>rd</sup> BN could not be provided as these are covered under Section 8(1) sub-clause (e) & (i) and this has been communicated to him (appellant) number of times with specific reference to letters dated 28.06.2014 and 14.03.2015 which he has not been objected to.

vii) It is further submitted that this Battalion is paying HRA to its employees as per norms and there is no loss to the state exchequer. In recent past audit inspection has been conducted by the audit party of AG J&K for the period covering 2/2011 to 10/2014 including HRA, but the audit party has not objected to the drawals made under HRA.

viii) That in reply to Para-3, the reply already stand provided on 14.3.2015, wherein it was communicated that as per SOP the operational area/deployment of two Coys of this Battalion viz. C&D Coys is in rural areas, therefore HRA is being drawn @ 10% in favour of COY personnel of these Coys.

ix) That in reply to Para-4 PIO has submitted that due to security reasons the names of GOs could not be shared. However, it was communicated to him that all GOs performing duties with Coys in the operational area of Srinagar are being paid HRA @ 20%, while as names of clerical staff, who are not exposed to any security risk or L&O, duty was provided to him as demanded in the RTI application.

x) That in reply to Para-5, PIO has submitted that rates applicable for HRA are governed by SRO 226, the copy of which has been provided to him as asked for.

xi) PIO has concluded his reply by submitting that information available has been provided to the appellant from time to time and whatsoever is restricted under law, the reply of which was accordingly provided to him well on time. PIO has alleged that appellant is involved in misconduct and misbehavior which was agitated by the officers/officials of IRP 3<sup>rd</sup> BN. That he wants to humiliate/malign the officer/officials of IRP 3<sup>rd</sup> BN and he has moved repeated application seeking information about HRA. On these grounds PIO has submitted that his appeal is not maintainable under rules, as such he has prayed that the appeal preferred by appellant may not be admitted and disposed off accordingly. PIO has also prayed that an ordinary delay caused due to holidays of 13<sup>th</sup> July, 15<sup>th</sup> July, 17<sup>th</sup> July and 18<sup>th</sup> July in submission of reply may be condoned.

04. During proceedings in the Commission on 03.08.2015, the appellant submitted that he has not received the copy of para-wise reply and accordingly PIO was directed to provide copy of the reply to the appellant, after the hearing for filing objections, if any, to the reply of PIO within 10 days with copy to the PIO to enable him file rejoinder.

05. In compliance to the above directions, appellant has filed his objections with copy to the PIO. PIO has filed his rejoinder on 21.08.2015.

Heard parties and perused documents brought on record by PIO and appellant.

**Decision:**

In -Para-A of the RTI application, the appellant has sought readable copies of pay bills of IRP 3<sup>rd</sup> BN for months of January-June and December 2014 and January-February 2015. This has been denied by the PIO invoking Section 8(1) (e) & (i) of the J&K RTI Act, 2009. The plea of the appellant is that pay bills of the department have nothing to do with the fiduciary relationship of any employee but on the other hand there is no invasion of privacy of any individual if these pay bills are provided. Appellant has further submitted that PIO is deliberately not providing the pay bills as huge loss to Govt. exchequer has already been caused by these people and therefore information sought is in larger public interest. He has further argued that if they have been given clean chit by the audit party, then what is the cause of this hesitation. Audits/intersections are conducted in each establishment to curb corruption/misappropriation but in the history of J&K no major scandal/ embezzlement has been brought to fore by such audit parties and therefore reliance mere on these audit parties shall be unproductive.

In his Second Appeal and also in his objections, the appellant has argued that disclosure of information is in larger public interests, yet he has neither substantiated nor lead and evidence to satisfy the Commission that larger public interest is involved, which would warrant disclosure of pay bills.

This view has been upheld by the Hon'ble Supreme Court in the case titled Girish R. Deshpande V/S CIC in appeal No.27734 of 2012, by observing that *'the petitioner in the instant case has not made a bona fide public interest in seeking information, the disclosure of such information would cause unwarranted invasion of the privacy of the individual under Section 8(1) (j) of the Act'* (Central Act). This Section of Central Act corresponds to Section 8(1) (i) of the J&K RTI Act, 2009 which has been invoked by the PIO in refusing the information. In view of aforesaid reasons, the order of the PIO is upheld.

At Para B, the information seeker has sought HRA of Hqr. Coy officials of IRP 3<sup>rd</sup> BN drawn during these months. This has been responded to by the PIO by referring to information already provided vide Para (B) of letter dated 14.03.2015. This has been contested by the appellant in his objections stating that he has been provided information which he never asked for and that he only raised the issue of Hqr. Coy situated at Parihaspura, which has not been discussed by the PIO in his reply. PIO has

submitted that the accounts of the battalion are audited by the Audit Party of AG J&K, and Audit Party has not objected to the drawls made under HRA. However, the audit report enclosed with the para wise reply of PIO has pointed out irregular drawl of HRA at higher rates.

Since PIO has not denied this information in respect of other Coys and also given the fact that Audit Party has pointed out irregular drawal of HRA at higher rates, PIO is directed to provide information sought at Point B without revealing the names of the officials.

As regards Para-C, response of the PIO that names of GO's could not be provided due to security reasons is upheld, as this limb of information shall fall under Section (8) (f) of the Act i.e. information, the disclosure of which would endanger the life of physical safety of any person or identity of the source of information ..... . However, PIO is directed to provide other limb of this information as it is similar in nature to the information sought at Point B.

As regards information sought at Point E, the rate of House Rent Allowance application at Parihaspura be intimated to the appellant in light of SRO 226 already provided to the information seeker.

The Commission has taken note of the fact that in compliance to the directions of the Commission dated 31.08.2015 with regard to implementation of provisions of Section 4 (1) (b), the Commandant/Controlling Officer of IRP 3<sup>rd</sup> BN has provided details of Section (4) to DIG (AROK) for hosting the same on the Police Website. He has further informed the Commission that information as per Section (4) has been kept available on notice board of the unit for general public.

The Commission would like to point out that information sought by the appellant revolves around payment of HRA allegedly at rates higher than prescribed as per Rules. Therefore, if the disclosure of the information above reveals that HRA has been paid in excess of the entitlement, then competent authority of J&K Armed Police shall take necessary steps to recover such excess payment on account of HRA so that larger objective of RTI Act as enshrined in the preamble is achieved. Accordingly, Registry shall mark a copy of this order to IGP Armed Range Kashmir for further necessary action in this regard.

The directions be complied with within three weeks.

**Sd/-**  
**(Nazir Ahmed)**  
**State Information Commissioner**

Copy to the: -

1. IGP Armed Range Kashmir.
2. Dy. Commandant, IRP 3<sup>rd</sup> BN, Parihaspura.
3. Pvt. Secretary to HSIC (K).
4. Sgct. Vinod Kumar No. 690/IRP-12<sup>th</sup> BN, Mattan Anantnag.

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