



**J&K State Information Commission**  
**Wazarat Road, Near D.C. Office, Jammu /**  
**Old Assembly Complex, Srinagar.**

**File No. SIC/CO/SA/357/2016**  
**Decision No. SIC/CO/SA/357/2016/896**

Appellant : Mohammad Tariq Mughal  
Respondent : PIO, JKSSB.  
Date of Institution : 16.03.2016  
Date of Decision : 06.04.2016  
State Information Commissioner: **Er. Nazir Ahmad**  
Decision : Appeal disposed of.

**1.** Mr. Javid Ahmad, SLO-cum-PIO, JKSSB and the appellant Mohammad Tariq Mughal caused their appearance before the Commission.

**FACTS:**

**2.** The appellant approached this Commission with a 2<sup>nd</sup> appeal, interalia, stating that he filed an RTI application before PIO, JKSSB, seeking certain information related to the merit position /selection process to the post of Naib Tehsildar in response to Advertisement Notice No. 1 of 2002, 09 of 2005 and 04 of 2008, written test of which was conducted in the month of February, 2009. That PIO, JKSSB did not provide any information, taking plea that he cannot provide information because of a court judgment, which is under active consideration of the department. That PIO further informed that as soon as position with regard to merit is determined as per the directions of the Hon'ble High Court, same will be informed to the appellant. That having not received information from PIO, appellant preferred first appeal before First Appellate Authority, JKSSB on 13-11-2015. That first appeal was not adjudicated by the FAA. That respondents, i.e., PIO/FAA have deliberately and intentionally not provided the information. In view of the above, appellant has prayed that respondents be

directed to provide complete and relevant information, impose penalty for delay, pay compensation and recommend disciplinary action.

**PROCEEDINGS:**

**3.** The appellant pointed out that although he received copy of PIO's communication dated: 27-10-2015, but the information refer to by the PIO was not enclosed. PIO, Mr. Javid Ahmad informed that requisite information cannot be provided in view of the court judgment, which is under active consideration of the department. That as soon as position with regard to merit is determined as per the directions of the Hon'ble High Court, same will be informed to the appellant. Since the PIO has referred to judgment of Hon'ble court, Commission would therefore like to draw his attention to Section 8(1)(b) of J&K State RTI Act, 2009, which provides that " information which has been expressly forbidden to be published by any court of law or tribunal or disclosure of which may constitute contempt of court cannot be provided." The reply of the PIO regarding court direction as referred to in his reply dated: 27-10-2015 is not clear with reference to relevant clause of the Act referred to above. The appellant submitted that the selection process in respect of posts advertised in advertisement notice numbers refer to in his RTI application has already been completed and their appointments have been made. That these appointments were later on challenged in the Hon'ble High Court, which the PIO has referred above. It therefore appears that the merit list and other information related to selection and appointment of Naib Tehsildar in the said advertisement notices were already in public domain and these appointments are under challenge. However, PIO did not produce any evidence / court order, by virtue of which disclosure of information sought is forbidden. Therefore, unless there is an express order of the court forbidding disclosure of information, there is no restriction on disclosure of information, as JKSSB has been disclosing merit list and selection list on its website.

**4.** During proceedings in the Commission today, PIO submitted that entire record is lying in the camp office, Srinagar and some of the documents have already been submitted to the Hon'ble court.

**DECISION:**

5. In view of the above, Mr. Javid Ahmad, PIO, PIO, JKSSB is directed to re-examine the response given by him and provide information which was already in the public domain to the appellant within two weeks, unless it attracts the provisions of Section 8(1)(b) of the J&K RTI Act, 2009.

6. The appeal filed before the Commission is disposed of.

Sd/-

**(Er. Nazir Ahmad)**

**State Information Commissioner**

No. SIC/CO/SA/357/2016

Dated: -04-2016

Copy to the:-

1. First Appellate Authority, Service Selection Board, J&K, Jammu.
2. Public Information Officer, Service Selection Board, J&K, Jammu.
3. Mohammad Tariq Mughal C/o J&K, High Court, Jammu (Appellant).
5. Guard file.

**(G.Q. Bhat)**

**Registrar,**

**J&K State Information Commission**