



**Jammu and Kashmir State Information Commission**

شٹی کی کمیشن انفارم ٹی اسٹ ری کشم نڈی ا جموں

(Constituted under The Right to Information Act, 2009)

**Wazarat Road, near DC Office Jammu, 0191-2520947, 2520937**

**Old Assembly Complex, Srinagar, 0194-2506660, 2506661**

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File No. SIC/K/SA/35/2016

Decision No. SIC/K/SA/35/2016/05

Appellant : Mr. Malik Mohammad Yousuf.  
Respondents : Executive Engineer, City Roads, Sgr.  
Date of Registration : 24.03.2016  
Date of Decision : 12.04.2016

The appellant filed Second Appeal before the Commission on 10.03.2016 submitting that he sought information from Chief Engineer R&B Department under RTI Act 2009 asking him to provide rule/method of new kind of engineering which allows construction of a new structure over dilapidate and badly damaged one. That Chief Engineer referred the case to Superintending Engineer/First Appellate Authority (R&B Circular Roads Project) Srinagar, who further referred the matter to Executive Engineer/Public Information Officer (PIO) City Roads Division Srinagar (the concerned constructing agency) for providing the information. That the concerned Xen/PIO has avoided the correct reply to the question asked through RTI Act and instead has tried to justify his procedure of construction in a way which is not convincing but far away from factual position. The appellant has referred to reply given by the PIO vide letter dated 30.12.2015 and submitted that he is not convinced with the reply.

The appellant has accordingly requested the Department to furnish the relevant procedure/rule etc. allowing the constructing agencies to construct a new structure over a damaged and dilapidated one to which no reply has been furnished.

As per records brought before the Commission, the appellant has filed an application under J&K RTI Act, 2009 dated 28.11.2015 stating therein that a dilapidated/badly damaged “U” shaped lane, which was constructed long back requiring reconstruction at Heewan Colony, near Mazari-Shuhada, Eidgah West. That concerned Xen City Roads Division, Srinagar carried out work by keeping the dilapidated structure as it was and raised its sides and its bed over the damaged structure which changed the shape of the whole structure, not letting the waste water flow freely and compounds of some houses came below the level of the lane.

In view of these submission, the appellant has requested that he be informed as to what kind of new engineering technology is it that permits a new structure be constructed over a dilapidated/damaged structure. He has also requested to kindly provide full information in this regard referring to this new method of engineering technology.

This RTI application has been responded to by PIO/Xen City Road Division, Srinagar vide letter dated 30.12.2015 as under: -

*“A main drain runs along SHAHEED MAZAR road which remains filled with not only sewerage, but with mulba/sludge and also the flow of waste water in the drain is very slow.it is further to inform that the said drain is a surface drain of which flooring is at such a level if lowered further then waste water from main drain enters surface drain and if the floor of the surface drain is elevated then*

*waste water from some houses will not flow into surface sewer because houses being at lower level.*

*In view of above position, the drain was repaired to maintain the floor level at such a position so that water from surface drain flows into the main drain. Surface drain has been restored with respect to water level of main sewerage drain constructed by UEED in order to maintain water flow from surface drain to main drain otherwise there will be reverse flow”.*

FAA/Superintending Engineer, Circular Road Project, Srinagar vide letter dated 06.02.2016 has asked the PIO to look into the matter again and provide the requisite information to the information in light of the contents of the applicant’s application under which he had sought information. Copy of this letter has been marked to the appellant as well.

In response to the notice of the Commission, PIO/Xen has filed reply dated 06.04.2016 giving para wise reply to the Second Appeal.

The Commission heard the appellant Mr. Malik Mohammad Yusuf, who is a senior citizen and PIO Er. Mohammad Ashraf. The appellant has sought information regarding rule/method of new kind of engineering technology which allows construction of a new structure over dilapidate and badly damaged one. PIO/Xen in his response vide letter dated 30.12.2015 has justified the method of construction carried out by them. However, the appellant is not convinced with this reply and therefore has filed Second Appeal.

During proceedings, Xen submitted that construction has been done as per site requirements as per estimates and tenders were invited.

As per definition of 'right to information' a citizen is entitled to inspection of work, documents, records which are held/under the control of Public Authority. Further, definition of "information" means any material in any form including records, documents, memos etc. Therefore, definition of 'information' under J&K RTI Act, 2009 does not include creating information and opinion which is not part of record. However, there is no bar for the PIO to give technical explanation, as has been done in this case. However, keeping in view the definition of 'information' and 'right to information', the Commission directs PIO/Xen City Roads Division, Srinagar to respond to the query of the RTI application with regard to "rule/method which allows construction of a new structure over dilapidate and badly damaged one", as per records held by him. Besides, he is directed to provide copy of estimates of the work and copy of NIT authenticated within two weeks from receipt of this order.

With the above directions, the appeal filed before the Commission is disposed of.

Sd/-  
(Nazir Ahmed)  
State Information Commissioner

Copy to the: -

1. Superintending Engineer (R&B) Circular Road Project, Srinagar.
2. Executive Engineer (R&B) City Roads Division, Srinagar.
3. Private Secretary to Hon'ble State Information Commissioner.
4. Mr. Malik Mohammad Yousufu r/o Heewan Colony near Mazari Shuhda, Eidgah Srinagar.

(M.S. Bhat),  
Deputy Registrar,  
State Information Commission