



Jammu and Kashmir State Information Commission

شہن ی کم شہن ی 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

www.jksic.nic.in

File No. SIC/K/SA/15/2016

Decision No. SIC/K/SA/15/2016/11

Appellant : Mr. Manish Sharma.
Respondents : PIO University of Kashmir.
Date of Registration : 01.02.2016
Date of Decision : 22.04.2016

The appellant filed Second Appeal before the Commission on 01.02.2016 stating that he filed an application under J&K RTI Act, 2009 before PIO, RTI Cell, University of Kashmir, Srinagar on 20.09.2015. That PIO in his reply dated 03.11.2015 demanded Rs. 120/- as Xerox charges which he cannot demand as the reply was given after 30 days' time limit. That he has been denied the information which he had sought in Point-2 of the application on the pretext of 'restriction clause', which he cannot because the information sought under Point-2 does not fall under the restriction clause but falls under 'public domain'. That he filed First Appeal against the order of PIO before FAA, University of Kashmir, Srinagar, the response to which is still awaited even after the lapse of 30 days. The appellant has requested the Commission to entertain the Second Appeal and issue directions to the authorities concerned so that he gets the information sought.

PIO University of Kashmir has filed reply dated 16. 02.2016 with copy to the appellant, interalia submitting that that RTI application received on 20.09.2015 was forwarded to the Controller of Examination & Coordinator (SET) to provide the requisite information for onward transmission to the applicant. That after receipt of information from the Coordinator (SET), applicant was informed vide letter dated 03.11.2015 to visit office of PIO on any working day and collect the available information after depositing the Xerox charges of Rs. 120/- in pursuance of the communication from Coordinator J&K SET, whose office though working under the supervision of University, is self-financed. Further, the applicant as also informed that the information with regard to Point-2 falls under restriction clause and is not disclosable within the purview of RTI Act in view of rulings of CIC in the case titled Mr. Ajay Srivastara Allahabad v/s UPSC New Delhi wherein it is held that copies of answer books cannot be provided due to fiduciary relationship with examiner, likewise own answer sheet may be sown to the applicant, but not answer sheet of others. PIO has also referred to another judgment of CIC in the case titled Gopal Sharma, Jaipur v/s North Western Railway. PIO has further submitted that FAA University of Kashmir passed order dated 18.12.2015 directing PIO to furnish the reasons for denying the information with regard to item 02 which has been to vide letter dated 09.01.2016.

During proceedings in the Commisison on 01.04.2016, it was observed that evidence regarding delivery of information to the applicant has not been brought before the Commission and accordingly PIO was directed to produce receipt/evidence of mode of postal service and also sent a copy of reply dated 16.02.2016 along with statement of

facts to the appellant through prescribed mode of service, if not already delivered.

In compliance to the directions of the Commission, PIO University of Kashmir has filed compliance report dated 18.04.2016 interalia submitting that the required information regarding item Nos. I, III & IV stand delivered to the appellant on 29.03.2016 through Registered Post alongwith copy of counter statement/reply dated 16.02.2016. That RTI application was initially issued a communication dated 03.11.2015 to deposit the Xerox charges, which has been wrongly construed as information on the subject by the FAA.

The Commission has observed that response of the PIO dated 03.11.2015 dated 03.11.2015 asking the appellant to deposit Xerox charges has been issued after expiry of prescribed period as per Section 7 of the Act including transfer period. Therefore, appellant is entitled to information free of cost which has now been provided by PIO in respect of Points I, III & IV. As regards Point No. II, the appellant has sought 'photocopies of OMR Sheets alongwith the Name & Parentage of candidates who have qualified the said exam as per the Supplementary Result Notification Dated 03.09.2015'. In a similar case titled Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors. in Civil Appeal No. 6454 of 2011, the Hon'ble Supreme Court of India has concluded as under: -

"In view of the foregoing, the order of the High Court directing the examining bodies to permit examinees to have inspection of their answer books is affirmed".

The Commisison is of the view that information regarding answer keys should have ordinarily been uploaded on the website of

University of Kashmir after declaration of results to facilitate examinees, which will eventually reduce frequency/flow of RTI applications and consequently the work load of PIOs. Therefore, Registrar University of Kashmir shall take steps to disseminate such information on the website of the University.

Since information which is disclosable has been sent through prescribed mode of service free of cost to the appellant, the appeal filed before the Commission is disposed of with above observations.

Sd/-
(Nazir Ahmed)
State Information Commissioner

Copy to the: -

1. Registrar University of Kashmir, Srinagar.
2. PIO University of Kashmir Srinagar.
3. Private Secretary to Hon'ble State Information Commissioner.
4. Mr. Manish Sharma & Sh. Vijay Kumar, Room No. 102,
Bawa Jittoo, Men's Hostel, University of Jammu.

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