



**Jammu and Kashmir State Information Commission**

شہن ۛم شہن ۛ 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](http://www.jksic.nic.in)

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File No. SIC/CO/SA/340/2016

Decision No. SIC/CO/SA/340/2016/910

Appellant : Sh. Ajay Kumar, Advocate  
Respondent : PIO O/o Director General of Police, J&K  
Date of Decision : 25.05.2016  
Result : Disposed of

**Facts of the case:**

1. Appellant filed an application for providing information under RTI Act, 2009 on 25.07.2015 through post, addressed to PIO, o/o DGP J&K Srinagar seeking following information;

*(a) Please provide me information under what Govt. order The Director General of Police (PHQ) and Police establishment Board recommended the name of SPO's as regular member of the Police Parivar.*

*(b) Please further provide me copy of all order along with selection list of those SPO's who absorbed as Constable*

*and follower by DGP(PHQ) Srinagar with effect from October 2014 to till date.*

2. Shri Rajeshwar Singh, AIG (Welfare), PIO, PHQ has disposed of the application vide No.PHQ/RTI/114/2015/1128-29 dated 29.08.2015 and provided information to part (a) of the RTI application, but denied information at point (b), invoking Section 8 (f) of J&K RTI Act i.e. ‘information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes’ stating that selection list cannot be disclosed in view of security of beneficiaries / State.

3. Aggrieved by the reply of PIO, appellant filed First Appeal against the order of the PIO on 19.09.2015. The FAA/IGP(CIV) PHQ J&K Srinagar disposed of the First Appeal vide order dated 28.10.2015, concluding that:

*“arguments regarding non-providing of the Selection list of SPO’s/Followers converted as Constable under the plea of Security of State cannot be considered in view of the section 8 of the RTI Act, 2009*

*It is hereby ordered that the information regarding the selection list of the covered list of SPO’s/Followers may please be provided to the appellant without further loss of time as the information is not exempted under the RTI Act, 2009.”*

4. The Commission received Second Appeal on 25.01.2016 against non-issuance of required information in pursuant to the application dated 25.07.2015 and order of the PIO dated 29.08.2015. It is submitted that under RTI Act he had sought information vide application dated 25.07.2015. That although PIO vide order dated 29.08.2015 provided information at Item (a) of the application, however, at Item (b) information has been declined on the ground of security of beneficiaries/state. That the FAA vide order dated 28.10.2015 directed PIO to provide information to appellant without further loss of time. That PIO did not provide information and therefore he requested the FAA that PIO be directed to provide the relevant information, but FAA vide communication dated 02.12.2015 advised him that if PIO is not providing the requisite information as per the order, then he may approach Chief Information Commission, J&K. in view of above submission, appellant has prayed that PIO be directed to provide true and complete information to the appellant and penalty be imposed on PIO under the provisions of RTI Act for intentionally, deliberately and malafidly furnishing incomplete information to the appellant.

5. In response to the notice of the Commission dated 09.02.2016, Shri Kulbir Singh (AIG CIV)/ PIO PHQ J&K Jammu filed reply/counter statement dated 16.02.2016 interalia submitting that the matter was taken up with AIG (P)PHQ vide letter dated 11.08.2015 and in response AIG (P) PHQ vide his U.O. No. AIG(P)/PA/RTI/2015/951 dated 26.08.2015 submitted copy of Home Department order, however, the copy of selection

list cannot be shared in view of security of beneficiaries/State. Accordingly same information was provided to the applicant vide letter dated 29.08.2015. That FAA PHQ after perusal of records issued order with the directions that the information regarding the selection list of the converted list of SPOs/Followers may please be provided to the appellant without further delay and accordingly his office requested AIG(P) PHQ to furnish the requisite information for onward transmission to the appellant. In response to this correspondence, AIG(P) PHQ submitted reply vide U.O. dated 08.12.2013(should have been 2015) and the same information was provided to the applicant vide letter dated 09.12.2015. PIO has concluded that information with regard to providing of list of SPOs who have been selected cannot be shared with the applicant in view of security of beneficiaries/state as 109 SPOs have been absorbed on operational ground. PIO has requested that appeal may kindly be dismissed.

6. During proceedings in the Commission on 07.04.2016, Shri Kulbir Singh, AIG CIV-cum-PIO, PHQ J&K Jammu was directed to 'provide copy of letter dated 16.02.2016 and reply dated 06.04.2016 to the appellant for filing rejoinder, if any, within one week with a copy to the respondents'.

7. The appellant has filed rejoinder to the reply dated 16.02.2016 and 06.04.2016 filed by PIO interalia informing him that as per Government Order No. Home/PB-III/62/G/2008 dated 25.09.2009 SPOs numbering 109 and 493 were absorbed as Constable and Followers in the Police Department and refused the selection list and order without further delay. That PIO has disclosed the rehabilitation policy, which is not relevant pertaining to this appeal, because the appellant does not mention the word

rehabilitation policy in the basic application. That stand taken by PIO is meaningless because FAA decided the appeal in the presence of PIO. Therefore, PIO has no right to deny the information at this stage. That PIO is refusing the selection list and order of the SPOs numbering 109 and 493 which is published in the news paper dated 12.10.2014 and 07.07.2015 without sufficient reasons. In view of above submission, appellant has prayed that PIO be directed to provide all orders along with selection list of SPOs who were absorbed as Constables and Followers by DGP (PHQ) Jammu w.e.f. October, 2014 till date.

8. Notice dated 19.05.2016 was issued to Shri Sham Lal Sharma FAA/IGP (CIV), PHQ, J&K and Shri Kulbeer Singh AIG(CIV)/PIO to appear before the Commission on 25.05.2016 at 01.30 pm at Srinagar Office of the Commission, with copy to the appellant. Appellant attended the hearing at Jammu office through Video Conferencing; however, neither FAA nor PIO appeared before the Commission though notice was sent to them through prescribed mode of service.

**Conclusion/Decision.**

9. The appellant vide application dated 25.07.2015 has sought information regarding 2 points i.e., (a) Under what Government Order DGP (PHQ) and Police Establishment Board recommended the names of SPOs as regular member of Police Parivar and (b) further to provide all orders along with selection list of those SPOs who were absorbed as constables and Followers by DGP(PHQ) Srinagar with effect from October 2014 till date.

PIO vide order dated 29.08.2015 has provided information in respect of Point (a) and denied information in respect to Point (b) invoking Section 8 (1)(f) of the Act.

Thereafter, FAA has decided First Appeal on 28.10.2015 concluding “The arguments regarding the non-providing of the selection list of SPOs/Followers converted as Constables under the plea of security of State cannot be considered in view of the section 8 of the RTI Act, 2009. It is hereby ordered that the information regarding selection list of converted list of SPOs/Followers may please be provided to the appellant without further loss of time as the information is not exempted under the RTI Act, 2009”.

Thereafter, in reply/counter statement 16.02.2016, Shri Kulbir Singh (AIG CIV)/PIO has submitted that after perusing the record, FAA PHQ J&K issued directions to provide selection list of the converted SPOs/Followers to the appellant without further delay. Accordingly, AIG(P) PHQ was requested to furnish requisite information for onward transmission to the appellant. That information provided by AIG(P) PHQ vide letter No. No. PA/AIG(P)/2015 dated 08.12.2015 was provided to the applicant vide letter dated 09.12.2015. However, information with regard to list of SPOs, who have been selected, has not been shared with the applicant citing security of beneficiaries/state as 109 SPOs have been absorbed on operational grounds.

10. The information provided to the appellant in respect of Point-1 is on the subject “regularization/rehabilitation of SPOs and Volunteer Home Guards (VHG) issued by Home Department vide order No. PB-III/62/G/2008 dated 25.09.2009”,

The FAA passed order after hearing PIO and directed that the selection list of SPO's be provided to the appellant, as it does not fall under the provisions of Section 8 of the Act. In reply/counter statement, PIO has not advanced any evidence before the Commission, which would substantiate his stand of denial of information on security grounds.

It is pertinent to mention that sub section 2 of Section 8 provides that "Notwithstanding anything in the State Official Secrets Act, Samvat 1977 or any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests".

The Commission has considered the submission made by the appellant and reply/counter statement of the respondents, from which it is evident that there is a set policy for appointment of SPO's as Constables/Followers. Therefore, the information sought with regard to selection list of SPO's shall serve larger public interest.

The FAA Shri Shyam Lal Sharma, IGP, who is a senior Police Officer, having considered all aspects of the appeal, ordered disclosure of selection list only.

In view of the above, the Commission reiterates the decision of FAA and directs PIO/AIG(CIV) PHQ J&K, Srinagar to disclose the information as directed by FAA in his order No. RTI/FAA-IGP(CIV)/24/2015/369-70 dated 28.10.2015 as referred to at para 9 above.

The Commission has taken a serious note that PIO has defied the directions of FAA and is therefore in breach of the provisions of the Act. Accordingly, Shri Kulbir Sigh (AIG/CIV)/PIO PHQ J&K Srinagar is directed to explain as to why penalty proceedings may not be initiated against him for not complying with the orders of FAA, which forced the

appellant to file Second Appeal in the Commission. His explanation should reach the Commission within two weeks from the date of receipt of this order.

Appeal is disposed of subject to the above directions.

Sd/-  
(Nazir Ahmed)  
State Information Commissioner

Copy to the: -

1. Inspector General of Police, CIV, PHQ, J&K, Srinagar.
2. PIO/AIG (CIV), PHQ, J&K, Srinagar.
3. Pvt. Secretary to Hon'ble State Information Commissioner, Srinagar.
4. Mr. Ajay Kumar (Advocate) High Court, J&K, Jammu.

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