



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

File No. SIC/J/A/51/2016
Decision No. SIC/J/A/51/2016/351

Appellant : Mr. Sumar Kumar
Respondent: FAA/ACD, Kishtwar & BDO/PIO, Drabshalla.
Date of Institution: 06-06-2016
Date of Decision: 29-06-2016/
Decision: Appeal disposed of.

1. Brief facts of the case are that appellant filed 2nd appeal under Section 16 of the J&K RTI Act, 2009 before the Commission on 14-03-2015 (admitted after completion of deficiencies on 31-05-2016), stating that he applied for information regarding works from 2012 to 2015. That appellant visited many times in the BDO office, but they have not supplied any information by one excuse or the other. That appellant preferred first appeal before ACD/FAA, Kishtwar, who vide order dated: 18-02-2016 informed appellant to approach BDO, Drabshalla for information. That in compliance to the directions of the FAA, appellant approached BDO, but he refused to provide any information. Appellant accordingly approached this Commission with 2nd appeal with prayer that requisite information be provided to him.

2. Mr. Garbir Rashid Dar, ACD/FAA, Kishtwar, Dr. Nasir Ahmad Bhat, BDO/PIO, Drabshalla and appellant, Mr. Suman Kumar heard via video conferencing from NIC, Kishtwar.

3. In compliance to the directions of the Commission, Dr. Nasir Ahmad Bhat, BDO/PIO, Drabshalla has filed reply/counter statement dated: 28-06-2016, inter alia stating that unpaid files were in the custody of Secretary, Panchayat, who was

transferred to other block and voluminous nature of record sought took considerable time to search the record, the application could not be disposed of within time limit as framed under RTI Act. That in compliance to the directions of the ACD/FAA, appellant was called in the office on 23-02-2016 for inspection of records vide letter dated: 20-02-2016.

4. During proceedings, Appellant admitted that he was called for inspection but was provided access to only two files. BDO further submitted that during inspection, the dealing assistant produced all the record before appellant but to his utter surprise, appellant refused to inspect the record and was demanding all the copies of record without any inspection. That appellant was assured that after inspecting record, desired information selected by him will be provided to him free of cost, but appellant refused and leave the office.

5. Commission has observed that the appellant has sought information with regard to all development works undertaken in block Drabshalla for three years and the information sought covers all aspects of works, i.e., muster sheets of skilled /un-skilled labourer, all vouchers, cost and name of materials, contingent register, material/bill books, estimate copy, cash book, invoices, bank statements, etc... In this connection, Commission would like to refer to preamble of the Act, which provides "*revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Government, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information, and.....*" Further, Section 6(1)(b) of the Act provides "*the application for information should specify the particulars of the information. Also Section 7(9) of the Act provides that information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.*" The Hon'ble Supreme Court of India in the case titled Aditya Bandopadhyay v/s CBSE (Civil Appeal No. 6454 of 2011), has held that "**the nation does not want a scenario where 75% of the staff of**

public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties.”

6. From perusal of information sought, it is evident that information is not specific, as entire record of the block has been sought. The Commission holds that compiling such information would indeed divert the resources of the public authority and thus attracts provisions of the Section 7(9) of the Act. Commission is also of the view that allowing inspection of record not specific to any work / period would also divert the resources of the public authority.

7. The Commission counseled the appellant to identify/specify such works where he has prima facie apprehensions of the irregularities / corruption, which would enable him to expose such mal practices.

During proceedings, Appellant identified/specified five works, where he has apprehensions of irregularities and these have been noted by the ACD/BDO. Accordingly, BDO is directed to provide copy of estimates/muster sheets of skilled & unskilled labourer, copy of invoices/voucher of labour and materials to the appellant in respect of these five works.

8. During proceedings, ACD and BDO informed that abstract of workdone under MGNREGA/IAY are available on the website of the department which includes estimated cost, details of payment of each component and physical status of work. Therefore, Commission directs PIO/BDO to provide complete list of works undertaken under MGNREGA and IAY for the year 2012-13, 2013-14 and 2014-15 within two weeks.

9. As per section 7 of the Act, BDO was required to dispose of the application either by providing information or rejecting it on the grounds as specified under the Act. Even if in the opinion of BDO, the information was huge and voluminous (as stated in reply), he should have informed appellant accordingly within period prescribed under the Act.

From the reply/counter statement filed by BDO/PIO, it appears that no such response have been given within period prescribed under the Act.

Therefore, as provisions of section 17 of the Act, an opportunity is being given to BDO/PIO, Drabshalla to explain as to why penalty shall not be imposed on for delay in providing information beyond period prescribed under the Act. His explanation, if any shall reach the Commission within two weeks of the receipt of this order.

10. The appeal filed before the Commission is disposed of with above directions.

Sd/-
(Er. Nazir Ahmad)
State Information Commissioner

No. SIC/J/A/51/2016

Dated: -06-2016

Copy to the:-

1. First Appellate Authority/ACD, Kishtwar.
2. Public Information Officer/BDO, Drabshalla.
3. Pvt. Secretary to HSIC.
4. Mr. Suman Kumar S/o Shri Chuni Lal R/o Godh (Saroor), Panchayat Kukrwar, Block Drabshalla, District Kishtwar (Appellant).
5. Guard file.

(G.Q.Bhat)
Registrar,
J&K, State Information Commission