



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

File No. SIC/J/A/277/2016  
Decision No. SIC/J/A/277/2016/355

Appellant : Smt. Shashi Bala  
Respondent: FAA/PIO, J&K, High Court.  
Date of Institution: 17-03-2016  
Date of Decision: 13-06-2016/  
Decision: Appeal disposed of.

**1.** Brief facts of the case are that appellant filed 2<sup>nd</sup> appeal under Section 16 of the J&K RTI Act, 2009 before the Commission on 17-03-2016, stating that she forwarded a letter to Hon'ble Chief Justice of J&K State pertaining to evidence of misuse of post and corruption against the Judge and Advocates with proof by speed post on 10-02-2015 vide S.No. EE892324850IN and letter dated: 10-11-2015 vide S.No. EE87753856IN. Accordingly, appellant filed an RTI application to PIO, J&K High Court on 17-12-2015, seeking status of his complaint and some other queries, but PIO did not reply within stipulated period of time. Thereafter, first appeal was filed before FAA, J&K High Court on 01-02-2016, which has been decided by Registrar General/FAA, J&K High Court vide order dated: 18-02-2016, upholding the order of PIO. Aggrieved by the responses of PIO and FAA, appellant approached this Commission with 2<sup>nd</sup> appeal with prayer that information be provided to him.

**2.** The case was heard on 20-04-2016, 29-04-2016, 16-05-2016 and 07-06-2016. Advocate Diwakar Sharma, Counsel for the respondents, PIO/FAA, High Court of J&K and Mr. Nirmal Kumar attended hearing via video conferencing from Jammu office of

the Commission on 07-06-2016. During proceedings on 20-04-2016, respondents, PIO/FAA, J&K High Court were directed to file reply/counter statement to the 2<sup>nd</sup> appeal with copy to the appellant. In compliance to said direction, Mr. Mohammad Yasin Beigh, Joint Registrar (Adm)/PIO, J&K, High Court filed reply/counter statement dated: 26-04-2016, interalia stating that first appeal was decided by Registrar General/FAA, High Court of J&K on 18-02-2016 with following observations;

***" The competent authority has declined to provide the copies of the proceedings and the copy of outcome of the complaint filed by the appellant against Mrs. Arti Mohan, Munsiff. So-far-as th query No. 3 and 4 of the appeal are concerned, PIO has neither any authority nor the jurisdiction to entertain them. The PIO has the power to dilate the information as it relates to the functioning of the public authority. The PIO has absolutely no power to give any opinion, advice or interpret the provisions the provisions of any law. Therefore, I find no merit in appeal of the appellant, which is dismissed."***

That order of FAA dated: 18-02-2016 was duly conveyed to the appellant, which he has admitted in the 2<sup>nd</sup> appeal. That by communication dated: 09-12-2015, information made available by the concerned Assistant Registrar (GS), High Court, Main Wing vide letter 23-11-2015 was disseminated to the appellant and the communication dated: 01-02-2015 of the Registrar Vigilance, High Court of J&K, whereby, it was informed that so far as issuance of copies of proceedings and copy of outcome of the complaint is concerned, the Competent Authority, i.e., Hon'ble Chief Justice has not granted permission for the same was also communicated to the appellant. The Joint Registrar (Adm)/PIO has substantiated this plea by quoting Rule 231 of J&K High Court Rules, 1999, which provides that ***" No copy of, or extract from any minute, letter or document on any administrative or confidential file of the Court shall be issued except under an order in writing of the Chief Justice."***

**3.** In view of the aforesaid rule position, PIO has submitted that it is crystal clear that it is within the domain of the Competent Authority, i.e., Hon'ble Chief Justice to grant or refuse permission for issuance of any copy of, extract from any minute, letter or document on any administrative or confidential file of the court as provided by Rule 231 of the J&K High Court Rules, 1999, referred to herein above.

**4.** PIO has also cited judgment passed by Hon'ble Supreme Court of India titled Aditya Bandopadhyay (2011) 8 SCC, wherein, Hon'ble Apex Court has held that RTI Act should not be allowed to be misused or abused to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Otherwise also, the information sought by the appellant falls within the restriction laid down in Section 8 of the J&K RTI Act, 2009, provided the Competent Authority grants such permission as it deems proper.

**5.** During proceedings on 29-04-2016, Commission directed appellant to file rejoinder/objection to reply/counter statement of PIO dated: 26-04-2016. In compliance to the directions of the Commission, appellant filed reply/rejoinder, objecting para 1-3 of counter statement of PIO, interalia stating that she could not attend hearing of first appeal due to illness. Appellant further stated that she had asked four general questions in RTI application which does not threaten to any one's security. Appellant has accordingly prayed Commission to direct respondents to reply her queries, otherwise cite the rule which prohibits disclosure of such information.

**6.** PIO has denied information on the ground that Competent Authority, i.e., Hon'ble Chief Justice has declined the disclosure of requisite information and to substantiate and support this plea, PIO in his counter reply has referred to Rule 231 of J&K High Court, Rules, 1999. Appellant has not objected Rule making power of the Competent Authority, which among other things bestows power with the Hon'ble Chief Justice to deny disclosure of information without any written permission. Commission would not interpret with the question of validity of such Rules and therefore upholds the order of FAA.

7. In view of the above, the appeal filed before the Commission is disposed of.

**Sd/-**  
**(Er. Nazir Ahmad)**

State Information Commissioner

Dated: -06-2016

No. SIC/J/A/277/2016

Copy to the:-

1. First Appellate Authority, Hon'ble High Court, J&K, Srinagar.
2. Public Information Officer, Hon'ble High Court, J&K, Srinagar/Jammu.
3. Pvt. Secretary to HSIC.
4. Smt. Shashi Bala R/o H.No. 131-A, Dream City, Muthi, Jammu (Appellant).
5. Guard file.

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