



Jammu and Kashmir State Information Commission

شنیشن کمیٹی انفارمیری اسٹیٹسٹ کشمیر جموں ا
(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/J/A/35/2016

Decision No. SIC/J/A/35/2016/377

Appellant : Sh. Gian Chand
Respondent : FAA/Director, Urban Local Bodies, Jammu
PIO/Executive Officer, MC Bishnah
Date of Registration : 18.05.2016
Date of Decision : 30.08.2016

Brief Facts:

The appellant Shri Gian Chand filed 2nd appeal stating that he filed RTI application dated: 14.12.2015 before PIO, O/o. Executive Officer, Municipal Committee Bishnah. That PIO did not furnish information within the prescribed time.

Aggrieved by the non-response of PIO, he filed First Appeal before Director, Urban Local Bodies, Jammu/FAA, but FAA didn't dispose of the First Appeal till date. That on 23.01.2016 counsel for appellant received 02 leaves of information dated: 19.01.2016, but said information was incomplete and misleading in all

respects. That vide letter dated: 28.01.2016, FAA informed appellant to attend his office for hearing on 02.02.2016, which appellant could not attend due to health issues. That on 24.02.2016 appellant again received 02 leaves of information dated: 17.02.2016 and same were the Xerox copies of the information sent earlier by the PIO, which was incomplete in all respects.

In view of the above appellant has requested the Commission to enquire into the matter and take strict action imposing penalty under section 17 of the Act on the erring and guilty officers. Further, PIO may be directed to provide complete information to the RTI application.

Proceedings:

In response to the Commission's notice dated: 09.06.2016, Sh. Soujanya Sharma, Director, Urban Local Bodies, Jammu-cum-FAA filed written statement stating therein that appellant filed appeal dated: 20.01.2016 on the ground that Executive Officer, MC Bishnah has not provided the information sought vide his application dated: 04.12.2015 (actual date is 15.12.2015). That his office vide notice 28.01.2016 fixed the appeal for hearing on 02.02.2016 after prior notice to the parties. However, case was adjourned on the request of the counsel for appellant Sh. Kovid Khosla. That the appeal was again fixed for hearing on 15.02.2016 after prior notice dated: 03.02.2016 sent through registered post. However, neither appellant nor his counsel caused their appearance, whereas, PIO attended the hearing. That PIO submitted that information has already been furnished to the appellant vide communication dated: 19.01.2016. That as the PIO contended that information has already been provided, he disposed of the First Appeal vide order issued under endorsement dated: 16.02.2016 and enclosed

information alongwith order of the FAA to the appellant. That he disposed of First Appeal within the stipulated time prescribed under the RTI Act.

During proceedings in the Commission on 03.08.2016, following directions were issued, which were conveyed to the respondents with copy to appellant under notice dated: 11.08.2016:-

“Upon perusal of the information sought vis-à-vis information provided by the PIO, it appears that information in respect of points (a),(b), (c) and (i) is available in the information provided by the PIO in tabular form under letter dated: 19.01.2016. However, PIO has not given response to points (d), (e), (f) & (h) of the application.”

On 30.08.2016 Sh. Rakesh Gupta, Deputy Director, Urban Local Bodies, Jammu attended hearing on behalf of FAA as the FAA has been deputed for a training at Ahmadabad vide Government Order No. 180-HUD of 2016 dated: 26.08.2016 which is taken on record. Sh. Ravinder Kumar, Food Inspector, MC Bishnah attended on behalf of PIO and submitted that PIO is sick and bed ridden and could not attend the hearing.

Conclusion:

In compliance to the directions of the Commission dated: 03.01.2016, Executive Officer, Municipal Committee, Bishnah has furnished reply to points d, e, f & h of the RTI application vide communication dated: 22.08.2016. The appellant contested the information provided by PIO in response to **point – e** , whereunder he has sought disengagement order/directions/file notings on the basis of which workers/labourers were disengaged. The response given by the Executive Officer, MC Bishnah is that no disengagement orders are required to be issued for the need felt workers/labourers. Appellant invited attention of the Commission to a communication from Executive Officer, MC Bishnah to Director,

Urban Local Bodies, Jammu dated: 17.07.2014, whereunder interalia the Executive Officer has informed as under:

“Undersigned disengaged the casual labourers engaged after 01.10.2009”

Food Inspector, MC Bishnah clarified that casual labourers are engaged on Muster Sheets and once they are disengaged, their names cease to exist on Muster Sheet. The respondents produced copy of reply to RTI filed by counsel for appellant Mr. Kovid Khosla Advocate in reference to another RTI application dated: 25.05.2016, whereunder in reply to para G, he has been informed that attendance sheet of Sukhdev Raj in respect of whom information has been sought, has been submitted in original to Examiner Chief Accounts Officer Local Fund Audit and Pension Jammu for monthly grants. It is, therefore, held that information in form of Muster Sheet as asked by the appellant is not available on the records of the Executive Officer. Therefore, he is not under any obligation to provide information which is not part of his record.

The Counsel for respondent submitted that RTI application filed by him has been responded to only after filing First Appeal and, therefore, there is delay in providing information beyond the period prescribed under section 7 of the Act.

In view of the above Commission directs Executive Officer, MC Bishnah to explain as to why proceedings under section 17 of the J&K RTI Act, 2009 shall not be initiated against him for prima facie delay in providing the information to the information seeker. His explanation, if any, should reach the Commission within 02 weeks from the date of receipt of this order.

The appeal is accordingly disposed of with above directions.

Sd/-

(Er. Nazir Ahmed)
State Information Commissioner

No: SIC/J/A/35/2016

Date: .2016

Copy to:

1. FAA/Sh. Soujanya Sharma, Director, Urban Local Bodies, Jammu.
2. PIO/Executive Officer, Municipal Committee Bishnah for compliance.
3. Appellant/Sh. Gian Chand, R/o. Village Bagga-Janna, Tehsil R.S. Pura, District: Jammu.
4. Sh. Kovid Khosla (Advocate) R/o. Opposite Eicher Showroom Sidhra, Jammu.

(Sheikh Fayaz Ahmad)
Registrar
J&K State Information Commission