



Jammu and Kashmir State Information Commission

شہن یشن کمیتہ انفارمیری اسٹیٹسٹ کشمیری 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/CO/Comp./141/2017

Decision No. SIC/CO/Comp./141/2017/959

Final Order

Complainant : Sh. Harsh Dev Singh
Chairman, J&K National Panthers Party,
R/o. 6-A, Gandhi Nagar, Jammu.

Respondent : Public Information Officer (PIO)/
Under Secretary to Government,
Social Welfare Department.

Date of Receipt : 14.12.2016

Date of Decision : 06.06.2017

Brief Facts:

This is a complaint filed under section 15 of the J&K RTI Act, 2009 (Act for short) by Sh. Harsh Dev Singh, Chairman, J&K National Panthers Party, R/o. 6-A, Gandhi Nagar, Jammu through his counsel Sh. Vilakshana Singh, Advocate interalia alleging that the PIO vide letter no. SW/RTI/62/2016 dated: 30.09.2016 had intentionally and deliberately provided false and incorrect information. That the information provided by the PIO is prima facie contrary to the information provided vide letter dated: 20.06.2016 by the Central Public Information Officer.

In view of the above, the complainant has requested that inquiry under section 15 of the Act may be initiated into the matter and the respondent PIO may be penalized under section 17 of the Act.

Proceedings:

This complaint was heard earlier on 29.03.2017 on which date directions were issued to the Social Welfare Department to submit an up to date status report in the matter. The hearing was adjourned to 08.05.2017. However, both the parties didn't attend the hearing on 08.05.2017, as a result of which the hearing was again adjourned and Registry was asked to fix the next date of hearing.

The complaint came up for hearing today on 06.06.2017. The complainant was again not present but the PIO/Sh. Riyaz-ul-Haq, Under Secretary to the Government, Social Welfare Department was present. The PIO had brought counter statement addressed to the Registrar, JKSIC filed vide his No. SW/RTI/62/2016 dated: 05.06.2017 along with copy of file notings and two annexures from the University of Jammu and University of Kashmir respectively which were perused. The communications from the University of Jammu and University of Kashmir indicated that they have constituted two expert groups for the study of the socio economic status and common ethnic characteristics of 'Koli' and 'Chopan' communities.

After going through the counter statement and record made available by the PIO regarding the subject and after hearing him, it was found that the letter dated: 16.10.2007 of the Ministry of Tribal Affairs regarding inclusion of 'Koli' as synonyms of 'Sippi' Scheduled Tribes of J&K had been

received and even processed on the file then, though not directly for the subject to which it was related i.e. inclusion of 'Koli' as synonyms of 'Sippi' Scheduled Tribes of J&K. The RTI file of the Social Welfare Department shows that after the receipt of the RTI application, the Under Secretary has sought the relevant information from concerned officials who have all stated that no such communications had been received in the department. The officials who have put up the reply were identified as: Mr. Rakesh Kumar, Record Keeper, Ms. Shamema, Head Assistant, Mr. Abid Khan, Section Officer and Mr. Arshad Jan, Section Officer. This is notwithstanding the fact that the letter from the Ministry of Tribal Affairs dated: 16.10.2007 had indeed been received by the Social Welfare Department then although no follow up action had been taken and seemingly the action that had been taken on the said letter was of a different kind pertaining to the Chopan community.

There is no doubt that the officials of the Social Welfare Department have exhibited a lackadaisical attitude in handling the RTI application and have apparently submitted incorrect information to the PIO/Under Secretary who in turn could not furnish a correct reply to the complainant. The complainant's assertion that the reply received from the PIO being incorrect and misleading seems to carry weight.

Decision:

Keeping in view the circumstances of the case and the information collected during the hearings conducted so far, proceedings under section 17 of the J&K RTI Act, 2009 for imposition of penalty and/or disciplinary action are warranted and need to be initiated. It is also a fit case to treat

the officials whose assistance was sought by the PIO as PIOs in terms of section 5 (5) and to initiate action against them under section 17 of the Act for providing incorrect information. A show-cause notice may, therefore, be issued to the officials namely PIO/Sh. Riyaz-ul-Haq, Under Secretary to the Government, Social Welfare Department, Mr. Abid Khan, Section Officer, Mr. Arshad Jan, Section Officer, Ms. Shamema, Head Assistant and Mr. Rakesh Kumar, Record Keeper all working in the Social Welfare Department asking them to show cause as to why action under section 17 of the J&K RTI Act, 2009 may not be taken against them for providing incorrect information to the RTI applicant and now complainant vide the Social Welfare Department's No. SW/RTI/62/2016 dated: 30.09.2016.

The complaint filed in the Commission is accordingly disposed of.

Copy of this decision be given free of cost to the parties.

Sd/-

(Khurshid A. Ganai) *IAS Retd.*
Chief Information Commissioner
J&K State Information Commission

No: SIC/CO/Comp./141/2017_____

Dated: .06.2017

Copy to:

1. PIO/Sh. Riyaz-ul-Haq, Under Secretary to the Government, Social Welfare Department for information.
2. PS to HCIC for information.
3. Complainant/Sh. Harsh Dev Singh, Chairman, J&K National Panthers Party, R/o. 6-A, Gandhi Nagar, Jammu.
4. Sh. Vilakshana Singh, Advocate, J&K High Court for information.
5. Office file.

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