



**Jammu and Kashmir State Information Commission**

شہنیشن 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](http://www.jksic.nic.in)

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File No. SIC/J/A/100/2017

Decision No. SIC/J/A/100/2017/11

**Final Order**

- Appellants : 1. Sh. Abdul Aziz Mirza  
S/o. Sh. Feroz Din Mirza and  
2. Sh. Mumtaz Ahmed  
S/o. Sh. Faqir Ullah Khan  
R/o. Surankote, Tehsil: Surankote,  
District: Poonch.
- Respondent : First Appellate Authority (FAA)/Director, Agriculture  
Jammu and Public Information Officer (PIO)/Chief  
Agriculture Officer, Poonch.
- Date of Registration : 13.03.2017
- Date of Decision : 13.06.2017

**Brief Facts:**

This is a second appeal filed under section 16 (4) of the J&K Right to Information Act, 2009 in the J&K State Information Commission (SIC) by Sh. Abdul Aziz Mirza S/o. Sh. Feroz Din Mirza and Sh. Mumtaz Ahmed, S/o. Sh. Faqir Ullah Khan, R/o. Surankote, Tehsil: Surankote, District: Poonch on 13.03.2017 inter alia submitting that the order dated: 28.01.2017 passed

by the Director, Agriculture Jammu whereby the information sought by the appellants has been denied is illegal, bad in the eyes of law and as such required to be set aside. That the appellants had sought the information as under:-

- i) Photostat copy of Service Book of Zanait Zahoor Manhas, an employee of Agriculture Department and working on the post of Agriculture Extension Officer in District Poonch, duly attested.
- ii) Complete service particulars i.e. Date of Appointment, Date of Birth with place of posting from time to time in the shape of statement duly attested.
- iii) Photostat copy of movable and immovable property statement w.e.f. 1986 to 12/2015 furnished by the above named incumbent of the Department.
- iv) Photostat copy of Form No. 16 of Income Tax Rule 1961 w.e.f. 1990-91 to 03/2016 duly attested along with salary statement of the said period.

The appellants have also submitted that the Director, Agriculture Jammu/FAA had directed the PIO/Chief Agriculture Officer (Poonch) to provide the information to the appellants regarding query No. (ii) mentioned above and refused to provide the rest of the information. That the service book, property statement and Form No. 16 of Income Tax when submitted by an employee before the concerned authority become public document and the information sought cannot be denied. That any person can seek the information regarding a public document as such, the FAA was wrong in not providing the information to the appellants. That a

penalty is required to be imposed upon the PIO concerned for not providing the complete information to the appellants. That the appellants are entitled to complete information as applied by them.

**Proceedings:**

In response to the notice of the Commission dated: 30.03.2017 FAA/Sh. A.K. Malhotra, Director of Agriculture, Jammu filed reply/counter statement to the 2<sup>nd</sup> appeal vide no. Agri/DAJ/Estt.RTI/FA/2017/119 dated: 07.04.2017 interalia submitting that a part of information has been provided to the appellant like Photostat copy of 1<sup>st</sup> page of the Service Book and Form No. 16 (for the year 2015-16) of Sh. Zeenat Zahoor (Z.Z. Manhas) by the SDAO Surankote (APIO). That on 28.01.2017 it was informed/acknowledged to the appellant telephonically as well as to the PIO/Chief Agriculture Officer, Poonch that as the queries raised in the matter are related to the personal information of the concerned employee of the Department and hence attracts exemption under section 8(1) (i) of the J&K RTI Act, 2009 and such type of information cannot be provided until and unless larger public interest is justified. That information in respect of query no. 2 (about complete service particulars i.e. date of appointment, date of birth and detail of postings from time to time) has already been ordered to be provided while disposing of the first appeal on 28.01.2017. That the appellant could not provide any argument or material as to substantiate that the personal information so asked for in the matter would serve any public interest. That information sought for related to Service Book, property statement, Form No. 16 of an employee

Sh. Zeenat Zahoor (Zanait Zahoor Manhas) which falls under the expression of 'personal information' has been denied under section 8(1)(i) of J&K RTI Act, 2009 which reads as under:

***"(1) Notwithstanding anything contained in the Act, there shall be no obligation to give any citizen-***

***(i) Information which relates to personal information the disclosure of which has no relationship to any public activity of interest, or which would cause unwarranted invasion of the privacy of the individual unless the Public Information Officer or the Appellate Authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information."***

The FAA has concluded that the argument presented by the appellants herein under the appeal before the Commission at point No. 4 that the service book, property statement and Form No. 16 of Income Tax when submitted by an employee before the concerned authority becomes public documents is not justified and besides, the appellants are not able to establish the larger public interest element in their RTI application as well as under First Appeal in the instant case. That the information denied is related to the performance of an employee/officer of an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression 'personal information', the disclosure of which has no relationship to any public activity or public interest. That the order of the FAA dated: 28.01.2017 issued on 02.02.2017 is also in tune with decisions of different competent authorities in the related issues viz. in SLP (C) 27734 of 2012, Hon'ble Supreme Court of India in the matter of Girish

Ramchandra Deshpande vs. Cen. Information Commr. & Ors. (Judgment dated October 3, 2012) and Appellate Authority in Securities and Exchange Board of India in the matter of M.K. Baig Vs. CPIO, SEBI, Mumbai while disposing a appeal 1795/2013 under the RTI Act, 2005.

The appeal was listed for hearing before the Commission on 12.04.2017 on which date the FAA/Director, Agriculture Jammu could not attend and was directed to remain present on the next date of hearing alongwith the information sought for minus the exempted information in terms of section 8 of the J&K RTI Act, 2009.

The appeal was again listed on 22.05.2017 which was attended by FAA/Sh. A.K. Malhotra, Director Agriculture, Jammu and the appellants. The hearing was adjourned to the next date of hearing with the direction to the appellants to produce substantial proof in support of their contention that the larger public interest was involved requiring provision of information pertaining to properties acquired by the public servant. They were also directed to produce the copy of the reference reported by them to have been made by the Crime Branch to the Vigilance Organization if such a reference existed at all and if they were in possession of a copy.

The appeal was again listed for hearing today on 13.06.2017. FAA/Sh. H.K. Razdan, the new Director Agriculture, Jammu and PIO/Sh. A.K. Mishri, Chief Agriculture Officer, Poonch. The appellants also attended. Appellants failed to place on record any relevant proof in support of their contention that larger public interest is involved in disclosing the personal information (property detail) of the person in question.

## **Decision/Direction:**

After hearing the parties and going through the papers on record it is directed that the FAA/Director Agriculture, Jammu and PIO, Chief Agriculture Officer, Poonch will allow and facilitate the appellants inspection of property returns of Sh. Zeenat Zahoor (Zanait Zahoor Manhas) available with the department either in the Chief Agriculture Officer's office or Directorate of Agriculture (Jammu) or the Agriculture Production Department (Administrative Department) within 04 weeks from the date of receipt of this order. It is also observed that the property returns of all the Government Employees should be part of suo motu disclosure of information under section 4 of the J&K RTI Act, 2009. If such disclosure is not private in case of All India Services (AIS) officers working in the State Administration, why should it be private for the State Government employees and officials.

As regards Form 16 (Income Tax), it transpires that the appellants had been provided a copy which they found incomplete etc. It is, therefore, directed that the appellants may be allowed inspection of income tax related documents submitted by the officer Sh. Zeenat Zahoor (Zanait Zahoor Manhas) after ensuring not to reveal PAN number, Aadhar number etc. to safeguard the confidentiality of PAN and Aadhar numbers of the said Government official.

The second appeal 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

Dated: . . .2017

No: SIC/J/A/100/2017\_\_\_\_\_

Copy to:

1. Registrar, J&KSIC for information and necessary action.
2. FAA/Director Agriculture, Jammu for information and necessary action.
3. PIO/Chief Agriculture Officer, Poonch for information and n/a.
4. Private Secretary to HCIC for information of the HCIC.
5. Appellants/Sh. Abdul Aziz Mirza, S/o. Sh. Feroz Din Mirza and Sh. Mumtaz Ahmed, S/o. Sh. Faqir Ullah Khan, R/o. Surankote, Tehsil: Surankote, District: Poonch for information.
6. Office file.

(Dr.Gh.Mohi-Ud-Din)

Joint Registrar  
J&K State Information Commission

