



Jammu and Kashmir State Information Commission

(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/SA/456/2017

Decision No. SIC/ CO/ SA/456/2017/971

Final Order.

Appellant : Haji Abdul Majid (Advocate).
Respondent : Public Information Officer (PIO),
J&K Custodian Department,
Two 2nd appeals : 1. SIC/CO/SA/455/2017 dated 27-02-2017 titled Haji
Abdul Majid (Advocate) Vs PIO J&K Custodian
Department. 2. SIC/CO/SA/456/2017 dated
27-02-2017 titled Haji Abdul Majid (Advocate) Vs
PIO J&K Custodian Department.
Date of decision : **19-06-2017.**
20-06-2017.
Decision : Appeal disposed of.

The appellant filed two 2nd appeals against the same PIO/FAA of the same Public Authority i.e Custodian General J&K, as such both the cases are clubbed together. This order will therefore, formally dispose of both the said 2nd appeals.

I. Brief facts of the case.

Briefly, the facts of this case are that the appellant in exercise of the Right to Information filed two (2) RTI applications dated 09-12-2016 with Public Information Officer (PIO), O/o the Custodian General, J&K seeking information inter-alia regarding appointment of Ajaz Ahmad Hajam and Mrs Shokia Shabnum who were appointed as Field Inspector in the Evacuee Property Department and

Casual Labour respectively. The PIO vide orders N0. CG/EP/470/16/Reader dated 26-02-2016 (in both the RTI applications) furnished to the appellant the information except on the points 2, 3 & 4 of his RTI application. With regard to the said points of information i.e 2,3 and 4 the PIO informed the appellant that the same is not available with them as almost all record of the Custodian General office got damaged/misplaced in the floods of September'2014. The PIO also informed him that the then Custodian General had made the appointment of Sh. Ejaz Ahmad as Field Inspector in cognizance of section 4-A of EP Act, 2006 after obtaining prior approval from the Hon'ble Revenue Minister at that time. PIO further informed him that Smt. Shokia Shabnum has been engaged as the casual labour on need basis by the then Custodian General and later on her temporary service has been regularized by the Custodian General against the post of Gardener in the light of directions of the Hon'ble High Court.

The reply of the PIO did not satisfy the appellant, as a result he filed the 1st appeal with the concerned First Appellate Authority (FAA), O/o Custodian General on 29-03-2016 with the request to provide him the requisite information. His 1st appeal was disposed of by the Custodian General/FAA vide order No. CG/EP/2291-92/16/Readie dated 14-12-2016 restating the version of the PIO in his (PIO's) reply to the RTI application. FAA further held in the 1st appeal that non-submission of information with regard to points 2, 3, 6 and 8 of the RTI application is not worth for consideration.

The appellant at last approached the Commission in 2nd appeal against the orders of the FAA.

II. Proceedings before the Commission.

During the hearing before the Commission on 21-04-2017 which was attended by Sh. Ghulam Jeelani Rafiqee, PIO and the appellant, Commission after hearing both the parties passed an interim order dated 21-04-2017 with the directions to the PIO to provide to the appellant the balance information in terms of his RTI application, subject to availability of information. The case was listed for 19-06-2017 but could not be heard and was finally heard on 20-06-2017.

III. **Decision:**

The appellant has stated that he has not received the full information particularly with regard to selection process and qualification of Sh. Aijaz Ahmad Hajam and similar queries in respect of Smt. Shokia Shabnum. The hearing on 20-06-2017 in both the cases was attended by Sh. Aijaz Ahmad Bhat, Custodian General/FAA and Sh. Ghulam Jeelani Rafiqee, PIO, Deputy Custodian Central O/o Custodian General, J&K. The PIO submitted copies of the two replies sent to the appellant vide No. CG(EP)844-45/2017 dated 26-05-2017 and CG(EP)844-47/2017 dated 26-05-2017 respectively. The appellant admitted that he has received these two letters but expressed his dissatisfaction on the ground that information was incomplete and did not mention about the qualification and selection process, if any pertaining to the appointees.

From the submissions made by the PIO, it appears that no selection process was ever conducted since there was no record to prove that. He however, stated that he will make further enquiries in the matter and send a reply to the appellant based on the fresh enquiry.

As regards the qualification of Sh. Aijaz Ahmad Hajam, the PIO stated that reference has been made to the Controller of Examination, University of Kashmir, for providing the copy of the graduation certificate which he claims to have obtained but has lost/misplaced his personal copy. Copy of the reference was shown during the hearing on 20-06-2017. The copy of this reference is directed to be provided to the appellant also.

The FAA/Custodian General who was personally present during the hearing on 20-06-2017 conceded that this 2nd appeal had arisen due to non-furnishing of the requisite information as sought by the appellant and that he would pursue/ensure that the balance information is provided to the appellant.

The Commission observed that the office of the Custodian General (PIO and FAA) should have dealt with this RTI applications more responsibly. It was felt during the hearing that the PIO had not replied some of the queries/requests for information for one reason or the other. Suffice to state here, the PIO and the FAA have to strictly follow the provisions of the RTI Act, while disposing of the request for information and the 1st appeal respectively.

With the above directions and on the understanding that balance information subject to availability on record and after obtaining it from the concerned quarters will be provided to the appellant, these two 2nd appeals are disposed of.

-sd/-

**(Khurshid A. Ganai)IAS Retd.,
Chief Information Commissioner,
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Copy to the:

6. First Appellate Authority (FAA), O/o Custodian General, J&K, Kashmir for information.
7. Public Information Officer (PIO), O/o Custodian General, J&K, Kashmir for information.
8. PS to CIC for information of HCIC.
9. Sh. Haji Abdul Majid (Advocate) S/o Lt. Chirag-u-din Bhat R/o 6/178 Gujjar Nagar, Jammu.
10. Guard file.

(Shiekh Fayaz Ahmad)
REGISTRAR,
J&K State Information Commission.