



Jammu and Kashmir State Information Commission

شنیشن کمیٹی انفارمیری اسٹیٹ کنڈ 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

FINAL ORDER

File No. SIC/K/SA/16/2017

Decision No. No. SIC/K/SA/16/2017/**20**

Appellant : Ms Hafeeza Begam

Respondent : First Appellate Authority (FAA)/Public
Information Officer (PIO) DC Office Kupwara

Date of Registration : 16.03.2017

Date of Decision : 03.07.2017

Brief Facts:

Brief facts of the 2nd appeal are that the appellant Mst Hafeeza Begum filed 2nd appeal against First Appellate Authority and Public Information Officer O/o Dy. Commissioner Kupwara on 06.09.2016. The appellant in her 2nd appeal has alleged that she filed an application before the PIO on 14.01.2016 for seeking some information from him, but her application was not responded to. Thereafter, on 20.05.2016 she filed First Appeal before the First Appellate Authority which was not disposed of by him. In this 2nd appeal, the appellant has requested the Commission to direct the concerned officials to provide her the requisite information.

As per the records enclosed with the 2nd appeal, the appellant vide RTI application received in the office of PIO on 14.01.2016 has sought following information:

"to issue notes and progress about the bund case around Nallah of Late Gh. Qadir Baba Taj of Taj Colony Bumhama District Kupwara along with fresh progress of such case vide Khasra No. 2178 and detailed report in her favour"

Thereafter, on 20.05.2016, the appellant filed First Appeal before FAA on the ground that she did not receive any reply from PIO.

On scrutiny of documents of the 2nd appeal, some deficiencies were found and the appeal was found barred by limitation. Accordingly, a deficiency notice was issued by the Commission to the appellant on 20.10.2016. In response to the said deficiency notice the appellant filed fresh 2nd appeal and application seeking condonation of delay on 13.12.2016. The Commission was pleased to condone delay and 2nd appeal was admitted on 16.03.2017.

Proceedings before the Commission.

The 2nd appeal was listed for hearing before the Commission on 16.05.2017, the parties did not attend the hearing. The hearing of the appeal was adjourned with the following directions:

“Public Information Officer (PIO) and First Appellate Authority (FAA) are directed to appear in person with relevant records pertaining to 2nd appeal on the next date of hearing. ”

The 2nd appeal was again listed for hearing on 09.06.2017. Additional Deputy Commissioner, Kupwara (PIO) attended the hearing. However, Dy. Commissioner Kupwara (FAA) vide letter dated 08.06.2017 has sought exemption from personal appearance before the Commission due to law and order situation which was granted. The appellant again did not attend the hearing.

The PIO submitted copy of reply/counterstatement dated 08.06.2017 during proceedings before the Commission. In his reply, the PIO has admitted to have received the RTI application from the applicant on 14.01.2016. The PIO submitted that contents of the application were not deciphered and accordingly vide letter dated 31.01.2016, the applicant was informed to attend the office of PIO in order to apprise the PIO, but she did not respond. Besides, in Para-4 of the reply, the PIO has submitted that the matter was taken with Assistant Commissioner Development Kupwara who vide communication dated 07.01.2017 reported that *“the nature of work highlighted in the RTI application has neither been taken up by the Department nor exist in the approved plan under any of the schemes being executed by the Department.”*

The 2nd appeal was again listed for hearing today on 03.07.2017. Mr. Abdul Hafiz Shah, Additional Deputy Commissioner kupwara/PIO and appellant Mst. Hafeeza Begum attended the hearing. During proceedings,

the PIO reiterated that information received from Assistant Commissioner Development (ACD) regarding the matter stands provided to the appellant. The appellant produced some old records pertaining to the subject matter of her RTI application namely construction of Bund on the Nallah at Bumhama and submitted that she had approached the concerned authorities number of times earlier for construction of the bund on the Nallah referred to in her RTI application under consideration, but till date, no action had been taken and her grievance is awaiting redressal.

Directions:

On perusal of the original RTI application of the appellant and the reply of AC (D) addressed to Additional Deputy Commissioner Kupwara dated 07.01.2017, it transpires that the information sought for by the appellant has now been provided. However, on perusal of the said reply, it is not clear as to why Assistant Commissioner (Development), Kupwara in his reply, has not mentioned that the matter was under consideration but has not been approved / accepted as yet. The cryptic reply of the AC (D) indicates as if the proposal of the appellant was never considered. The reply of the AC (D) Kupwara is, however, technically correct viz-a-viz the information sought by the appellant. The appellant's basic grievance is regarding construction of the Bund on the Nallah at Taj Colony, Bumhama and through the medium of this RTI, has tried to pressurize the respondents to solve her grievance. There is no mechanism within the provisions of the J&K RTI Act 2009 and the RTI Rules to redress the grievances of the appellants outside the framework of the said Act and the

Rules. The Dy. Commissioner Kupwara should however consider the grievance of the appellant as per factual position, genuineness, need and availability of resources.

The 2nd appeal is accordingly, disposed of.

Sd/-
(Khurshid A. Ganai) IAS Retd
Chief Information Commissioner

Copy to:

1. Dy. Commissioner, Kupwara
2. PIO / Addl. Dy. Commissioner Kupwara
3. Appellant-Mst Hafeez Bdgum D/o Lt. Qadir Baba R/o Raj colony
Bumhama Muqami Shahwali Kupwara
4. Office file

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