



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

ORDER

File No. SIC/K/Comp/48/2014
Decision No. SIC/K/Comp/48/2014/**2017/24**

Before the Chief Information Commissioner, JKSIC, Srinagar

In the Case of Complaint of Sh. Mohammad Iqbal Bhat V/S ACR Kulgam

In the matter of : *Penalty proceedings against Mr. Gulzar Ahmad Dar, Addl. Secretary to the Government, Tourism Department, the then ACR Kulgam*

This is an old case of a complaint made under Section-15 by one Shri Mohammad Iqbal Bhat S/o Gh. Rasool Bhat R/o Paniwah Kulgam against Shri Gulzar Ahmad Dar, the then ACR Kulgam. The former State Information Commissioner, Shri Nazir Ahmad had heard the parties in the said complaint and issued a show cause notice on 25.08.2014 to Shri Gulzar Ahmad Dar, the then AC(R) Kulgam to explain as to why penalty under Section-17 may not be imposed on him for not furnishing the information to the RTI applicant within the stipulated time period. Further proceedings seem to have remained pending in the State Information Commission mainly due to non-response from the officer Shri

Gulzar Ahmad Dar against whom the complaint was filed and due to his non-attendance of the hearings. The said complaint came up once again for hearing on 7th July 2017 in which Shri Gulzar Ahmad Dar, now Addl. Secretary to the Government, Tourism Department, the then AC (R) Kulgam attended personally. His main defence for having failed to provide the information in time is based on the following two grounds:

- 1. That immediately after receipt of the RTI application on 03.01.2014, he was sent for training in Project Management at New Delhi by the State government in the month of January, 2014 itself.*
- 2. That while the RTI application was being processed in DC Office, kulgam, he was transferred as Deputy Excise Commissioner (Executive) Kashmir on 17.02.2014 and was relieved a few days later.*

The Officer has regretted for not having been prompt in the disposal of the RTI application within the stipulated time and insisted that it was not deliberate or dereliction of duty or negligence. He also expressed his regrets for not being able to attend some of the hearings in the complaint filed before the Commission and assured to be careful in future. Considering the submissions made by the Officer in his defence and the two main grounds given by him to explain the delay in dealing with the RTI application viz-a-viz Training at New Delhi and transfer to another Department while the RTI application was being processed in the DC Office Kulgam, it appears that the officer has no doubt delayed providing of information but the circumstances support the

contention of the PIO/officer that it was not deliberate or clear dereliction of duty or clear negligence deserving imposition of penalty in terms of Section-17 (4).At the same time, the officer is not blameless. He has not been prompt and efficient in his work as a PIO and that seems to be the main reason for not meeting the deadline of thirty days provided to the PIO under Section 7(1) of the RTI Act. The two main grounds cited by the officer in his defence are attenuating factors which justify holding back imposition of penalty on the PIO under Section 17(1) of the Act.

keeping in view the fact, that the officer has not intentionally/deliberately delayed in providing the information to the appellant but nevertheless there was a delay on his part, the Commission recommends initiating disciplinary action against the officer in terms of Section 17(2) of the J&K RTI Act, 2009 only for the purpose of issuing a warning to him to be careful in future.

Registry is directed to send a copy of this order to Secretary to Government, General Administration Department (I/C of KAS Cadre) for initiating proceedings to issue a warning to the officer for remaining careful in future under intimation to the Commission.

With the above direction, the file may be consigned to records.

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

Copy to the:

1. Commr/Secretary to the Government, General Administration Department.
2. Shri Gulzar Ahmad Dar, Addl. Secretary to the Government Tourism Department Civil Secretariat Srinagar
3. Shri Mohammad Iqbal Bhat S/o Gh. Rasool Bhat R/o Baniwah Kulgam
4. Pvt Secy to HCIC
5. Office File

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