



Jammu and Kashmir State Information Commission

شنیشن کمیٹی انفارمیری اسٹینڈیٹ 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/K/SA/18/2017

Decision No. No. SIC/K/SA/18/2017/**25**

Appellant : Mohamamd Amin Shah

Respondent : First Appellate Authority (FAA)/Superintending Engineer (SE) R&B Circle, Pulwama/Shopian Public information Officer (PIO)/Executive Engineer R&B Circle, Pulwama

Date of Registration : 16.03.2017

Date of Decision : 07.07.2017

Brief Facts:

Brief facts of the 2nd appeal are that the appellant Shri Mohammad Amin Shah filed 2nd appeal before the Commission on 24.10.2016 against the First Appellate Authority/Superintending Engineer R&B Circle Pulwama and Executive Engineer/PIO R&B Circle Pulwama. The appellant in the said appeal has alleged that he had sought information from the PIO Vide letter dated 04.04.2016 and after waiting for two months, no reply was received by him and accordingly vide letter dated 06.06.2016, the PIO was reminded to provide the information. That thereafter PIO vide letter dated 22.06.2016 provided him unsatisfactory, vague, absurd and deceptive information. That on 27.06.2016 he filed Frist Appeal before FAA, who vide letter dated 29.06.2016 directed the PIO to provide the information directly to the appellant within two days. However,

the PIO has failed to furnish the requisite information till filing of 2nd appeal before the Commission. The appellant has requested the Commission to take necessary action against the respondents under the provisions of the J&K RTI Act.

As per the records of the 2nd Appeal, the appellant vide application dated 04.04.2017 has sought information from the PIO/Executive Engineer on four issue related to the construction reportedly made on graveyard land opposite to State Bank of India on the road going from the Bust Stand Tral to Tral Bala. The PIO vide order dated 22.06.2016 has responded to all the four issues of the applicant. Not satisfied with the reply of the PIO, the appellant filed the first appeal before the FAA on 22.06.2016. The FAA vide letter dated 29.06.2016 directed the PIO/Executive Engineer R&B Circle Pulwama to provide the requisite information to the information seeker within two days positively. Thereafter, the appellant has filed the 2nd appeal before the commission on the ground that the PIO has failed to provide the information to the appellant despite directions from the FAA.

On scrutiny of the documents, the 2nd appeal was found to be barred by limitation. The appellant accordingly submitted an application dated 14.11.2016 for condonation of delay. The Commission was pleased to condone the delay and the 2nd appeal was accordingly admitted on 17.03.2017.

Proceedings before the Commission:

In response to notice of the Commission PIO/Executive Engineer (R&B) Circle, Pulwama submitted the copy of order dated 11.01.2017 through which point wise response has been provided to the information seeker. Er. Ab. Majid Khan FAA/Superintending Engineer (R&B) Circle, Pulwama/Shopian filed reply/counter statement vide letter dated 11.01.2017 interalia submitting that in pursuance to the First Appeal field before him by the appellant, the PIO vide letter dated 29.06. 2016 was

directed to provide the requisite information directly to the appellant within two days positively.

The 2nd appeal was listed for hearing before the Commission on 07.07.2017. Mr Sajad Ahmad Naqeeb, PIO/Executive Engineer, R&B Division Pulwama and appellant, Mr. Mohammad Amin Shah attended the hearing. During proceedings, the appellant submitted that the PIO vide letter dated 22.06.2016 provided him unsatisfactory and deceptive information. Subsequently, in pursuance to the directions of FAA, PIO vide order dated 11.01.2017 again provided point wise response to his RTI application that too is incomplete and manipulated one. The appellant invited the attention of the Commission towards response of the PIO to query No. 2 of his application and submitted that the PIO in his order dated 11.01.2017 has referred a letter dated 04.04.2016 on the subject of stopping of illegal construction, however the reference of the said letter has not been given in the former letter dated 22.06.2016. Further, in response to query No.3 PIO has submitted that the matter regarding demolition has been taken up with SHO Police Station Tral, however in response to another RTI application, PIO Police Division Awantipora vide letter dated 03.06.2017 informed him that as per records of Police Station Tral, no application has been received from the Public works Department for demolition of illegal structure. The PIO submitted during proceedings that the point wise information as per available records was provided to the applicant initially vide letter 22.06.2016 and thereafter vide letter 11.01.2017.

Decision:

The Commission heard the parties at length and considered the arguments made during the proceedings. On perusal of the queries of the appellant in his original RTI application and the response of the PIO, it transpires that all the queries have been responded to. Further, it is found that there is no contradiction in response of the PIO dated 22.06.2016 and

11.01.2017, however, the later is a bit elaboration of the former one. The contention of the appellant as to why reference of letter dated 04.04.2016 for stopping of illegal construction has not been given in reply dated 22.06.2017 carries weight. The PIO during hearing submitted that inadvertently the reference of that has not been made in the former reply, however, there was no malafide intention to withhold the information that subsequently has been provided to the appellant. The PIO further submitted that the appellant has basically a grievance with respect to demolition of an illegal construction which can be considered again and his request for demolition processed separately outside the framework of the RTI Act and the rules. He insisted that the queries of the appellant have been responded and information provided.

However, as per the records, the PIO has not responded/disposed of the RTI application under consideration within stipulated period as provided under the Act, he is therefore directed to explain as to why action under Section-17 shall not be taken against him. His explanation in this regard should reach the Commission within two weeks from the receipt of this order.

The 2nd appeal filed before the Commission is accordingly disposed of.

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

Copy to:

1. First Appellate Authority (FAA)/Superintending Engineer (SE) R&B Circle, Pulwama/Shopian
2. Public information Officer (PIO)/Executive Engineer R&B Circle, Pulwama

3. Appellant-Shri Mohammad Amin Shah R/o Lane No. 1 H No.09
Green Avenue Sector-1st Hyderpora
4. Office file

(Sheikh Fayaz Ahmad)

Registrar

J&K State Information Commission