



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

Final Order

File No. SIC/CO/SA/451/2017
Case No. SIC/CO/SA/4451/2017/**972**

Appellant : Sh. Touseef Majeed Rather
Respondent : First Appellate Authority (FAA)/
Public Information Officer (PIO)
Social Welfare Department
Date of Registration : 09-03-2017
Date of decision : 19-06-2017

I. Brief facts of the case.

The Appellant while exercising his Right to Information under section 6 of the J&K RTI Act, 2009 filed RTI application with PIO, Social Welfare Department Kashmir on 21.06.2016 seeking information relating to details of persons working as Anganwadi Workers/Helpers/Supervisors/BLOs of District Srinagar. As he did not get the requisite information, he approached the First Appellate Authority (FAA), Directorate of ICDS Kashmir with First Appeal on 18.11.2016, who too failed to dispose of his First Appeal in terms of

Section 16(7) of the J&K RTI Act, 2009. Thereafter, the appellant landed with 2nd appeal in the Commission against the inaction of the respondents in furnishing him the requisite information. His 2nd Appeal was received in the Commission on 21.02.2017. As per the record, PIO, Directorate of Social Welfare Kashmir, transferred the RTI application to the PIO O/o State Mission Directorate ICDS Kashmir on 23.06.2016 for disposal of the same on the grounds that information sought for pertains to their office. That was the reason for the applicant to file First Appeal with FAA, Directorate of ICDS Kashmir after he did not get the requisite information.

Proceedings before the Commission

The Commission issued hearing notice dated 26.04.2017 to the FAA and PIO, O/o Directorate of State Mission Director, J&K for appearing before the Commission along with relevant documents and counter statement on 11.05.2017. In response to the Commissions said notice Shri Pran Singh, Jt. Director ICDS J&K cum PIO and appellant attended the Commission. PIO submitted written statement, thereby interalia submitting that appellant wants information of District Srinagar for which separate PIO and FAA have been designated vide Government Order No. 233-SW of 2015 dated 17.11.2015 pertaining to different districts of the State. He furnished copy of the said lost order. After hearing the parties, the case was adjourned with direction to the Mission Director, ICDS J&K to order and impress upon the programme

officer, ICDS, District Srinagar to collect the information with regard to columns **A to P** as per the original RTI application held by different PIO appointed vide Government Order No. 233-SW of 2015 dated 17.11.2015 and provide the same to the appellant. Further, the District Social Welfare Officer Srinagar (PIO) was directed to provide the information pertaining to column **Q and R** to the appellant. The information was to be provided free of cost in terms of Section 7(6) of the J&K RTI Act, 2009, within three weeks.

The case was against listed for hearing before the Commission on 31.05.2017. However, none of the parties attended the hearing . As such, hearing was adjourned with directions to seek the compliance report of the the Commission's interim order dated 11.05.2017 from respondents besides the reasons for non-attendance. The final hearing in the case was held on 20.06.2016, which was attended by Mrs Rashida Akther I/C District Social Welfare Officer, Srinagar and the appellant. Again, no one from the ICDS Department appeared before the Commission for hearing despite due notice. Incharge DSW Officer Srinagar cum PIO informed the Commission that the requisite information pertaining to their office has been furnished to the appellant vide letter dated 05.06.2017. Copy of which is also provided to the Commission. Appellant submitted that he has not been furnished all the requisite information as per his basic RTI application.

Decision:

The Commission observed with concern that neither the Mission Director ICDS nor his PIO and FAA have complied with the directions of

the Commission. The RTI wing of the concerned Public Authority has reportedly denied the information till date.. The officers at the helm of affairs in the ICDS Department seem to be totally ignorant about the provisions of the J&K RTI Act, 2009 which reflects badly on a department that is supposed to look after rights and welfare of women. Above all, the right to seek information through RTI Act is now part of the Fundamental Right of "Freedom of speech and expression" as enshrined in the constitution which seems to have been violated by the respondents in this case. Further, it is observed that FAA, ICDS, J&K also has failed to dispose of the First Appeal.

The Commission further observed that the response given by the PIO Social Welfare Department to the RTI application is also very late that too after intervention of the Commission.

In view of the above, the Commission directs

- 1) The FAA, ICDS, J&K to submit explanation for not disposing of the First Appeal and also for not appearing before the Commission on the dates of hearing despite due notices.
- 2) The PIO, ICDS J&K Kashmir is directed to explain as to why penalty shall not be imposed upon him in terms Section 17(1) of the J&K RTI Act, 2009 for not collecting and furnishing the requisite information to the applicant as sought by him through his RTI application. The direction of this Commission to the Mission Director J&K through PIO, ICDS, Kashmir who was present and also through the written interim order dated 11.05.2017 that the Programme Officer of ICDS, Srinagar

be directed to collect and provide the information has also fallen on deaf ears and no follow up has been taken.

- 3) The PIO, Social Welfare Department, Srinagar is directed to explain as to why penalty shall not be imposed upon her for not providing the part of information pertaining to their Department (Social Welfare) to the appellant within the stipulated time period as provided under the Act. The RTI application was received by the PIO Social Welfare Department, Kashmir dated 21.06.2016 and the information has been provided on 05.06.2017 which is clearly in violation of Section 7(1) of the Act.
- 4) The reply of the aforementioned officers shall reach the Commission within the period of 15 days from the receipt of this order.

Accordingly, the 2nd appeal is disposed of subject to above directions.

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

No: SIC/CO/SA/433/2017_____

Dated: 04 .07.2017

Copy to:

1. Mission Director, ICDS, J&K
2. First Appellate Authority (FAA) Directorate of ICDS J&K Kashmir
3. PIO, ICDS J&K Kashmir
4. Public Information Officer PIO, Social Welfare Department, Srinagar
5. Appellant/Sh. Touseef Majeed Rather S/o Abdul Majeed Rather R/o Maisuma Dubji Lal Chowk Srinagar
6. Office file.

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