



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/K/SA/23/2017
Decision No. SIC/K/SA/23/2017/**30**

FINAL ORDER

Appellant : Mr. Mohammad Musa

Respondent : First Appellate Authority (FAA) Commandant,
IRP 1th BN/ /Public Information Officer (PIO)
Commandant IRP 18th BN (Hqrs)
Reshipora Shopian

Date of Registration : 17.04.2017

Date of Decision : 10.08.2017

Brief Facts:

The brief facts of this 2nd appeal are that the appellant Shri Mohammad Musa through his counsel filed 2nd appeal before the State Information Commission (SIC) on 17.04.2017 against the FAA/Commandant IRP 18th BN and PIO/Dy. Commandant IRP 18th BN Reshipora Shopian on the ground that the PIO has not provided any reply to his RTI application filed on 27.12.2016 before the PIO/ Commandant IRP 18th BN (Hqrs), Reshipora, Shopian, within specified time as provided under the J&K RTI Act,

2009. Thereafter, the FAA has not considered and decided the 1st appeal on merits within the time specified under the Act. The appellant has requested the SIC to impose penalty on the PIO and the FAA with directions to provide him the complete reply/information as sought by him vide his RTI application dated 27.12.2016.

As per the records of the case, the appellant vide RTI application dated 27.12.2016 filed before PIO/Commandant IRP 17 BN (Hqrs) Reshipora, Shopian has sought information on eight queries pertaining to his duties with the Hon'ble Chairman, J&K Legislative Counsel dated 07-08/07/2016. Thereafter, the appellant filed 1st appeal before the FAA on the ground that he did not receive any response to his RTI application from the PIO within the stipulated time, which amounts to refusal to provide the information. Later on, the appellant filed 2nd appeal before the SIC against the inaction of the PIO as well as the FAA.

Proceedings before the Commission:

The 2nd appeal was initially listed for hearing on 30.05.2017, however, the Commandant IRP 18th BN (Hqrs) Reshipora Shopian vide Signal No. IR 18th/GB-Writ petition/2017/10241 dated 29.05.2017 sought adjournment in view of abnormal situation and heavy law and order duty. The hearing was accordingly adjourned.

On 06.06.2017, the SIC received reply/written submission from the counsel of the appellant submitting therein that during pendency of the 2nd appeal he received information from the PIO, but the same is incomplete in respect of certain queries.

In response to the notice of the SIC, the respondents have filed joint reply dated 27.06.2017 to the 2nd appeal, in which the respondents after giving brief facts of the case have submitted that the requisite information sought by the appellant has been provided to the appellant through his counsel vide letter dated 06.04.2017 along with all records.

This 2nd appeal was filed in the SIC on 17.04.2017, but owing to the need for conduct of more hearings for appropriate and final disposal of the appeal, the time period for disposal was accordingly extended by another 60 days up to a maximum of 120 days from the date of filing the appeal i.e. 17.06.2017 in terms of Section 16(11) of the J&K RTI Act, 2009.

The 2nd appeal was again heard by the SIC on 11.07.2017. The First Appellate Authority (FAA)/Commandant IRP 18th BN vide letter dated 10.07.2017 had authorized DySP Abdul Hamid of IRP 18th BN for attending the hearing and sought exemption from personal hearing owing to law and order situations, which was granted. Dy. SP, Ab. Hamid of IRP 18th BN and Inspector (M) Syed Aman-ul-Haq attended the hearing. Neither the appellant nor the counsel for appellant attended the hearing.

The appellant through his counsel had filed reply/written statements dated 25.05.2017 received in the Commission on 06.06.2017 in which he has submitted that the information provided to him by the PIO vide letter dated 06.04.2017 is incomplete. The copy of the aforesaid reply dated 25.05.2017 has not been sent to the PIO. So, copy of the same was provided to the

PIO IRP 18th BN during the hearing for filing the rejoinder (with copy to the appellant), under an intimation to the commission and thereafter hearing in the case was adjourned.

Again, the case was listed for hearing today on 10th August, 2017. Syed Aman-ul-Haq, Inspector (M), IRP 18th BN, authorized representative of the respondent PIO attended the hearing. However, neither the applicant, nor his counsel attended the hearing. FAA was again absent. During the proceedings, the representative of the PIO submitted that all the information as per records has been provided to the appellant. But, the representative of the PIO could not produce any evidence before the SIC viz-a-viz compliance of the directions of the SIC's interim order dated 11.07.2017. The representative, however, reiterated that complete information stands provided to the appellant.

Decision

The appellant in his reply/ written statement dated 25.05.2017 has admitted to have received the information from the PIO, however, he has simultaneously submitted that the information received is incomplete. The PIO vide interim order dated 11.07.2017 was directed to file reply/rejoinder to the written reply of the appellant before the next date of hearing. But, there is nothing on record to show that the directions of SIC have been complied with. The PIO, IRP 18th BN is therefore directed to provide the balance information to the appellant within a period of three weeks from the date of receipt of this order under an intimation to the SIC.

A serious view has also been taken of the continued absence of the FAA/Commandant IRP 18th BN, Reshipora Shopian on all days of hearing of the 2nd appeal in the SIC. In this regard, Registrar, SIC on behalf of the J&K SIC will bring this to the notice of DGP J&K and also recommend to him in terms of Section 22(5) of the J&KRTI Act, 2009 to impress upon the officers of the Police Department to take their duty and responsibility as PIO/FAA/Head of Public Authority seriously and to ensure prompt response and reply to the RTI applications/appellants as per the provisions of the J&K RTI Act, 2009 and J&K RTI Rules, 2012.

Accordingly, the 2nd appeal filed before the SIC is disposed of.

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

S.Sajad Ahmad

Copy to:

1. FAA/Commandant IRP 18th BN, Reshipora Shopian
2. PIO / Commandant IRP 18th BN Reshipora, Shopian
3. Appellant- Sh. Muhamamd Mussa SgCt-249 IRP 18th BN C/o Z A Qazi Advocate, J&K High Court Complex Janipur, Jammu
4. Office file

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