



**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**

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**(FINAL ORDER)**

File No. SIC/K/SA/38/2017

Decision No. No. SIC/K/SA/38/2017/**36**

Appellant: Mr. Gh. Hassan Kumar

Respondent: First Appellate Authority (FAA)/Directorate of  
School Education, Kashmir Srinagar  
Public Information Officer (PIO) Chief  
Education Officer, Kulgam

Date of Registration : 28.06.2017

Date of Decision : 31.08.2017

**Brief Facts:**

Brief facts of the case are that the Commission received 2<sup>nd</sup> appeal of the appellant Shri Gh. Hassan Kumar through his counsel Mr. Mukhtar Ahmad Makroo Advocate against FAA/Directorate of School Education Kashmir and PIO/Chief Education Officer, Kulgam. The appellant in 2<sup>nd</sup> appeal has submitted that on 19-01-2017, he filed an application under J&K RTI Act 2009 before Chief Education Officer, Kulgam/PIO for seeking information but the PIO did not provided him the information in pursuance

of the provisions of the RTI Act that constrained the appellant to file First appeal before the FAA on 03-03-2017 through registered post. Thereafter, the appellant received information from PIO vide letter dated 31-03-2017 on 03-04-2017. The appellant has alleged that the information/reply received by him is misleading, incomplete, vague and without any records and the information has been intentionally and willfully denied to the appellant. The appellant requested the Commission to take strict action against the PIO with direction to provide the complete information and penalty be imposed upon PIO for not supplying the information.

As per the records enclosed with the 2<sup>nd</sup> appeal, the appellant vide RTI application dated 19-01-2017 has sought information regarding regularization of CPS's/LFPW's as class IV against the available reserved posts in District Kulgam, seniority list thereof, reasons for dropping the applicant from seniority list etc. etc. Thereafter against the inaction of PIO, appellant filed First appeal before FAA/DSEK on 03-03-2017. After filing of First appeal the appellant received information from the PIO/CEO Kulgam vide letter dated 31-03-2017. Not satisfied with the reply of PIO, appellant filed the 2<sup>nd</sup> appeal before Commission on 09-05-2017. On scrutiny of documents some deficiencies were notices and the 2<sup>nd</sup> appeal was returned to appellant for doing the needful. The appellant completed the deficiency on 28-06-2017 and the 2<sup>nd</sup> appeal was accordingly admitted.

**Proceedings before the Commission:**

In response to the notice of the Commission dated 10-07-2017, PIO/Chief Education Officer, Kulgam filed reply/counter statement to 2<sup>nd</sup> appeal dated 18-07-2017 submitting that the appellant had not filed the RTI application before him on 19-01-2017, however he received the same

as annexure with First appeal received from FAA/office of DSEK. Further, PIO has submitted that in response to said First appeal, the information was provided to the appellant on 01-04-2017 under proper receipt, besides the detailed factual report regarding the matter has been submitted to Director School Education Kashmir vide letter dated 31-03-2017 with copy to appellant. The FAA/DSEK in his reply/counter statement has reiterated that information as per records available stands provided to appellant by the PIO vide letter dated 31-03-2017.

The second appeal was partly heard by the Commission on 07-08-2017. The hearing was adjourned interalia with following observation:-

***"At this stage of proceedings in the 2<sup>nd</sup> appeal, the truth about the receipt of the basic RTI application in the CEO/PIO's Office on 21.01/2017 needs to be unraveled as the appellant is insisting having submitted the application and has also enclosed a receipt (Receipt No. 2409/17 dated 21.01.2017), whereas the PIO/CEO vide his letter dated 18.07.2017 has denied having ever received the RTI application in the CEO Office Kulgam. The truth can be unraveled through a fresh enquiry by the new CEO/PIO and inspection of CEO Office documents. Accordingly, the CEO/PIO is directed to conduct a fresh enquiry and bring the required documents to the next hearing before this Commission".***

The second appeal came up for hearing today on 31-08-2017. Sh. Saif Ali Chouhan FAA/Jt. Director, DSEK attended the hearing. In compliance to directions of the Commission, the PIO/CEO Kulgam

submitted written explanation dated 30-08-2017. In the instant explanation, the PIO has submitted that he assumed the charge of CEO Kulgam on 30-07-2017, personally perused the records relating to the matter and found that the information has been provided to the appellant on 01-04-2017 under proper receipt. The PIO further stated that the RTI application dated 19-01-2017 has been received in the office of CEO Kulgam on 21-01-2017. The counsel for the appellant admitted to have received the information on 01-04-2017, however submitted that the information is incomplete, misleading, vague and without any records.

*The 2<sup>nd</sup> appeal was filed in the SIC on 28.06.2017 but owing to the need for conduct of more hearings for appropriate and final disposal of the appeal, the time period for the disposal was accordingly extended by another 60 days upto a maximum of 120 days from the date of filing the appeal in terms of Section 16(11) of the J&K RTI Act, 2009.*

### **Decision:**

Heard parties at length and perused records of the 2<sup>nd</sup> appeal. It has been confirmed now that the appellant has filed the RTI application dated 19-01-2017 in the office of CEO Kulgam on 21-01-2017 under proper receipt. The application has remained unattended in the office of PIO and has been responded only vide communication of CEO Kulgam addressed to DSEK dated 31-03-2017 with copy to appellant received by him on 01-04-2017. The PIO has failed to dispose of the RTI application within the stipulated period of time as provided under Section 7 of J&K RTI Act, 2009. The Second appeal is disposed of with following directions

1. The Chief Education Officer, Kulgam (PIO) is directed to go through the original RTI application of the appellant and the reply/response of the then PIO Mr. Abdul Rouf Shahmiri presently CEO Budgam and provide the balance information as per available record and in terms of the provisions of the Act to the appellant within 21 days from the date of receipt of this order;
2. The RTI application has been received in the office of PIO on 21-01-2017 and the PIO has failed to dispose of the said application within the stipulated period of 30 days time provided under Section 7 (1) of J&K RTI Act. As such, the then CEO/PIO Mr. Abdul Rouf Shahmiri presently CEO Budgam is directed to explain as to why action under section 17 of the J&K RTI Act, 2009 shall not be taken against him. His explanation shall reach the Commission within 15 days from the receipt of the order.
3. The public at large expects the Education Department to be the front runner in leading the way as far as implementation of the RTI Act is concerned. The minimum that is expected from the Education Department is to create awareness about the provisions of the RTI Act, 2009 at all levels within the Department. The information seekers should be provided information sought by them as per their RTI applications within the stipulated time period of 30 days from the date of receipt of RTI application by the PIO concerned as per the provisions of the J&K RTI Act, 2009. The Directorate of School Education must spread this awareness among ZEOs/CEOs as well as other officers for which seminars/Roundtables must be held within

the department so that the PIOs/APIOs of the department are got well equipped to be able to deal with the RTI applications. We expect that the FAA will also take these directions seriously and perform their job as First Appellate Authority in terms of Section-16 of the J&K RTI Act, 2009.

With these directions, the 2<sup>nd</sup> appeal filed before the Commission is disposed of.

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

Copy to the:-

1. Director School Education Department Kashmir
2. FAA/Jt Director Education, DSE Kashmir
3. PIO/Chief Education Officer, Kulgam
4. Sh. Ab. Rauf Shahmiri, the then CEO Kulgam presently CEO Budgam
5. Appellant-Mr Gh. Hassan Kumar S/o Habibullah Kumar, R/o Sheerpora Yaripora Kulgam through the counsel Mukhtar Ahmad Makroo (Advocate) S/o Gh. Mohammad Makroo R/o Arwani Bijbehara, Anantnag
6. Office file.

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