



Jammu and Kashmir State Information Commission

شہنیشن کمیٹی انفارمیری اسٹیٹسٹ کشمیر 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/CO/SA/391/2016

Decision No. SIC/CO/SA/391/2016/983

Final Order
(Non compliance)

Complainant : Ms. Shiwani
Respondent : Public Information Officer (PIO), J&K Services
Selection Board (J&KSSB), Srinagar
Date of Receipt : 22.05.2017
Date of Decision : 12.09.2017

Brief Facts:

This is a complaint filed by Ms. Shiwani, D/o. Sh. Dharampal, R/o. Panjgrain, Tehsil Ramnagar, District Udhampur for non-compliance of the Commission's order dated: 05.10.2016, which came up for hearing today on 12.09.2017.

Proceedings:

The PIO, J&KSSB Sh. Abdul Rehman attended the hearing. The complainant was heard through Video Conferencing from NIC, Udhampur.

The complainant stated that she has not received any information from the PIO, J&KSSB ever since the orders of the State Information

Commission (SIC) dated: 05.10.2016 except a copy of letter dated: 04.10.2016 which was delivered to her through post on 28.08.2017. This letter dated: 04.10.2016 shows only the breakup of points and grand points obtained by her in the selection test but does not contain the information which she had asked for in her RTI application and which was ordered to be given to her by the SIC in her second appeal through its order dated: 05.10.2016. She also stated that she could not be heard by the Commission due to postponement of the hearings in July and August, 2017.

The PIO, J&KSSB stated that he is not sure whether the information she had asked for i.e. photocopy of the written test exam has been despatched to her through post. He further stated that she had been telephonically informed on 17.11.2016 to come personally on 21.11.2016 at 02:00 p.m. to collect the information from the office of the JKSSB which she did not do. He admitted that the information asked for by her through the RTI application does not seem to have been delivered to her through registered post after she did not attend the office of the J&KSSB personally in response to the telephonic message. He further stated that he will ensure that the requisite information is provided to her in terms of the SIC's order dated: 05.10.2016 and in terms of her RTI application and sent to her through registered post within a week's time positively.

Decision:

From the perusal of the records and the statements of both the complainant and the PIO heard today on 12.09.2017, it transpires that it is a classical case of negligence on the part of the PIO and the RTI staff of

J&KSSB who have slept over the matter ever since the orders of the SIC dated: 05.10.2016 and that no effort has been made by the J&KSSB to deliver the information after the appellant (now complainant) did not report to the J&KSSB's office for collection of the information in pursuance of the telephonic message dated: 17.11.2016. Nearly 10 months have elapsed since the last effort was made by the J&KSSB to deliver the information after which there is nothing on record to show that any effort was made by them to implement the orders of the Commission. The least they should have done was to send the information to her by registered post as soon as possible after she did not turn up at the J&KSSB's office in response to the telephonic message. All this is notwithstanding the penalty proceedings in the matter ordered vide SIC order dated: 19.10.2016.

Under the J&K RTI Act, 2009, complaints are to be heard in terms of section 15 of the Act. The Penalty, if any, is to be imposed in terms of section 17 of the same Act. There is palpable evidence that the PIO and his other team i.e. RTI staff who are in charge of putting up RTI files to the PIO and ensuring timely replies to RTI queries received by the J&KSSB and compliance of the orders of the SIC, have shown gross negligence in the transaction of their official work and exhibited dereliction of duty which calls for imposition of penalty under section 17. The PIO, JKSSB Sh. Abdul Rehman has stated that he has taken over nearly 02 months back and before him Sh. Hamidullah, Law Officer was the PIO and before Sh. Hamidullah, Sh. Ab. Rashid Dar who has retired in March, 2017 was the PIO. Be that as it may, all the PIOs are guilty of gross negligence and also their staff who have been identified as Sh. Peer Mohd. Shafi and Sh. Mushtaq Ahmed, Senior Assistant. Section 17 of the J&K RTI Act, 2009

prescribes that before imposition of penalty on the PIO and the deemed PIOs, an opportunity of being heard be provided to the PIOs and other officials against whom proceedings are to be conducted. In the current proceedings, Sh. Peer Mohd. Shafi, Senior Assistant working in the RTI section and Sh. Mushtaq Ahmed, Senior Assistant whose assistance was and is sought by the PIO in the disposal of RTI applications, being assigned this duty specifically in the J&KSSB, are declared to be deemed PIOs in terms of section 5(5) of the Act on the grounds that they were intimately connected with the RTI related work and were equally responsible for ensuring timely provision of information and implementation of the orders of the Commission. Now, therefore, Sh. Abdul Rehman, PIO, JKSSB, Sh. Hamidullah, Law officer, Sh. Peer Mohd. Shafi and Sh. Mushtaq Ahmed, Senior Assistant are given an opportunity of being heard personally in the instant penalty proceedings to state their position and also to present any arguments as to why penalty may not be imposed against them under section 17 of the J&K RTI Act, 2009. A view about the retired PIO Sh. Abdul Rashid Dar will be taken subsequently.

Registry to ensure that the file comes up for the penalty proceedings before or by 1st week of October, 2017 and the concerned are served due notice in time.

Hence this complaint is disposed of as such.

Copy of this decision be given free of cost to the parties.

Sd/-

(Khurshid A. Ganai) *IAS Retd.*
Chief Information Commissioner
J&K State Information Commission

(P.A. Ajay)

No: SIC/CO/SA /391/2016_____

Dated: .09.2017

Copy to:

1. Sh. Abdul Rehman Bhat, Public Information Officer, J&KSSB for information and n/a. He is also directed to deliver this order to Sh. Peer Mohd. Shafi, and Sh. Mushtaq Ahmed, both Senior Assistants of the J&KSSB for their information and necessary action thereof.
2. Sh. Hamidullah, Law Officer, J&KSSB for information and necessary action.
3. PS to HCIC for information of the HCIC.
4. Appellant/Ms. Shiwani, D/o. Sh. Dharampal, R/o. Panjgrain Nagrota, Tehsil Ramnagar, District Udhampur for information.
5. Office file.

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