



**Jammu and Kashmir State Information Commission**  
(Constituted under the Right to Information Act, 2009)  
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**Old Assembly Complex, Srinagar, 0194-2506660, 2506661**

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File No. SIC/K/SA/40/2017  
Decision No. SIC/K/SA/40/2017/**53**

**FINAL ORDER**

Appellant : Shri Gh. Mohammad Wani

Respondent : First Appellate Authority (FAA) SE Hydraulic  
Circle Sopore, Public Information Officer  
(PIO)/ Executive Engineer Hydraulic Circle  
Bandipora

Date of Registration : 06.07.2017

Date of Decision : 24-10-2017

The brief facts of this case are that the appellant Shri Gh. Mohammad Wani filed the 2<sup>nd</sup> appeal before the Commission on 05.06.2017 against FAA/SE Hydraulic Circle Sopore and Executive Engineer/PIO PHE Hydraulic Bandipora stating therein that vide RTI application dated 16.01.2017, he had sought some information from the Executive Engineer / PIO PHE Hydraulic Bandipora, but the PIO has failed

to provide him the requisite information. Thereafter, he filed the First Appeal before the FAA/SE Hydraulic Circle Sopore on 27.03.2017, he too has not provided him the requisite information till date. The appellant has requested the Commission to look into the matter and direct the concerned authorities to provide him the information sought as per his basic RTI application.

As per the records enclosed with the 2<sup>nd</sup> appeal, the appellant vide RTI application filed before the PIO on 16.01.2017 has sought information on 22 queries pertaining to an employee namely Mr. Ghulam Mohammad Wani S/o Ab. Rahim Wani R/o Sumlar Bandipora. On 27.03.2017. The appellant filed the Frist appeal before the FAA/SE Hydraulic Circle Sopore against the inaction of the PIO. Thereafter, the appellant approached the Commission with the instant 2<sup>nd</sup> appeal on 05.06.2017 against the non-action of the PIO and the FAA.

On scrutiny of documents of the 2<sup>nd</sup> appeal some deficiencies were found which the appellant completed on 06.07.2017 and accordingly the 2<sup>nd</sup> appeal was admitted.

**Proceedings before the Commission:**

The 2<sup>nd</sup> appeal was heard by the Commission on 09.08.2017. The appellant attended the hearing. The PIO joined the hearing after a delay of about one hour. The FAA, however, did not attend the hearing nor did any authorized representative attend on his behalf. This is despite advance notice issued by the Commission to both the officers (PIO and the FAA) on 18<sup>th</sup> July, 2017.

The reply/counter statement was submitted by the PIO during the hearing which was taken on record. The PIO stated that the reply to the RTI application has been sent very recently, though delayed. However, he could not provide/show a copy of the said reply sent to the appellant/applicant.

As per the statement of the PIO made during the hearing, he has already provided information to the appellant recently (a few days back) which the appellant has reportedly not received yet, as per his statement.

To ascertain the relevant details about the information reportedly provided by the PIO recently (a few days back) and about the apparent dereliction of duty and negligence of the FAA and for considering action under Section-17 of the J&K RTI Act, 2009 against the PIO for an excessively delayed response to the RTI application dated 16.01.2017 hearing in this 2<sup>nd</sup> appeal will have to be continued for now.

The 2<sup>nd</sup> appeal again came up for hearing on 19.09.2017. Mr. Ghulam Qadir Bhat FAA/SE Hydraulic Circle Sopore, Mr. Gh. Mohammad Bhat Executive Engineer /PIO PHE Hydraulic Bandipora and representative of the appellant Shri Aadil Rasool Wani attended the hearing.

During the proceedings, the PIO submitted that the point wise reply to the RTI application of the appellant has been sent to the appellant through registered post However, the representative of the appellant denied receipt of the same, which may be due to postal delay. While perusing the point wise reply furnished to the appellant

by the PIO, it is noticed that the reply has not been properly compiled. There is overlapping of individual and point wise reply. The PIO hinted that this may be due to clerical error committed by the office staff. However, this indicates that the officials working in the office of Executive Engineer, Hydraulic Circle, Bandipora are not dealing with the RTI applications seriously and that they do not show due consideration towards the RTI applications. The officials of the Executive Engineer, Hydraulic Circle, Bandipora should be made adequately sensitive to the provisions of the RTI Act and the Rules made thereof, so that they are able to deal with the RTI applications as per the RTI Act and for that they must also be trained in dealing with the RTI applications. Notwithstanding these observations about the officials, incharge of preparing the reply to RTIs working in the PIO's office, the PIO cannot absolve himself of the basic responsibility to ensure correct reply to each and every RTI application.

It was also brought to the notice by the PIO that the parties i.e. the appellant and the official of the I & F C Department Shri Gh. Mohammad Wani about whom the appellant has sought information from the Department have a personal dispute over some land/trees which is what may have prompted this RTI application. He stated that he i.e. PIO is personally aware of the dispute and so is also the Tehsildar, Bandipora who has been hearing the case/dispute between the two parties. This is an important piece of information and therefore before taking a final view in the matter this issue of personal or property dispute as possible motivation for RTI merits to be looked into. This is without prejudice to Section 6(2) of the J&K

RTI Act, 2009. *Tehsildar Bandipora may therefore be asked to submit a report in the matter.*

Hearing in the 2<sup>nd</sup> appeal was adjourned with directions to the PIO to provide updated point wise reply to the information seeker as per his RTI application under intimation to the Commission.

The 2nd appeal came up for final hearing today on 24.10.2017. Mr. Ghulam Qadir Bhat FAA/SE Hydraulic Circle Sopore, Mr. Gh. Mohammad Bhat Executive Engineer /PIO PHE Hydraulic Bandipora and representative of the appellant Shri Aadil Rasool Wani attended the hearing.

The representative of the appellant submitted before the Commission that he has not received any reply from the PIO after the interim directions of the Commission dated 19.09.2017. The PIO submitted that the updated information in compliance to the directions of the Commission has been sent to the appellant through speed post on 21.10.2017. The PIO produced the copy of the letter dated 21.10.2017 addressed to the appellant through which the information has been posted to the appellant. The PIO provided one additional set of information to the representative of the appellant during the proceedings. The representative of the appellant perused the information and expressed his satisfaction with the same.

**Decision:**

The PIO in compliance to the directions of the Commission has provided information on all the queries of the RTI application under consideration in the 2<sup>nd</sup> appeal to the appellant. The representative of the appellant has submitted that he is satisfied with the information provided

by the PIO. Therefore, no further proceedings are required in the instant case. The 2<sup>nd</sup> appeal is disposed of accordingly.

Sd/-  
**(Mohammad Ashraf Mir)**  
State Information Commissioner

**Copy to the:**

1. FAA/Superintending Engineer Hydraulic Circle, Sopore
2. PIO/Executive Engineer Hydraulic Division, Bandipora
3. Pvt. Secretary to HSIC (K)
4. Tehsildar Executive Bandipora
5. Appellant—Shri Gh. Mohammad Wani S/o S/o Ab. Gani Wani R/o Sumlar, Bandipora
6. Office file

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