



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

www.jksic.nic.in

File No. SIC/K/SA/51/2017

Decision No. SIC/K/SA/51/2017/**54**

FINAL ORDER

Appellant : Shri Gh. Nabi Qureshi, Ex-Master High School
Poshkar R/o Aripanthan, Budgam

Respondent : First Appellate Authority (FAA)/
Public Information Officer (PIO)/ Chief
Education Officer, Budgam

Date of Registration : 07.08.2017

Date of Decision : 25-10-2017

The brief facts of the case are that the appellant Sh. Gh. Nabi Qureshi Retired Master R/o Aripanthan Budgam filed the 2nd appeal against the FAA/PIO O/o the Chief Education Officer Budgam before the Commission on 30.06.2017. The appellant has alleged that the PIO has failed to provide him the information sought vide RTI application dated 16.03.2017. Thereafter, he filed the First Appeal before the FAA on

17.04.2017, who too has not provided him the requisite information despite lapse of stipulated period of time. The appellant has requested the Commission to take necessary action against the PIO with direction to provide him the information sought.

As per records enclosed with the 2nd appeal, the appellant vide RTI application dated 16.03.2017 submitted before the PIO/CEO Budgam has sought information regarding his pending claims with the Education Department. On 17.04.2017, the appellant filed the First Appeal before the FAA O/o CEO Budgam. When his First Appeal was not responded to by the FAA, he filed a reminder dated 06.05.2017. Thereafter, the appellant approached the Commission with the 2nd appeal on 30.06.2017 against the inaction fo the PIO and the FAA.

On scrutiny of the 2nd appeal, some deficiencies were pointed out which the appellant got completed and accordingly the 2nd appeal was admitted on 07.08.2017.

Proceedings before the Commission:

The 2nd appeal was heard by the Commission on 15.09.2017. Mr Ab. Raouf Shahmiri PIO/CEO Budgam and the appellant Shri Ghulam Nabi Qureshi attended the hearing. During the proceedings, the PIO/CEO Budgam accepted that there is nothing on record to show that the then PIO has replied to the RTI application of the appellant. He also stated that even the First Appeal submitted by the appellant has not been disposed of and perhaps not forwarded to the FAA, namely the Jt. Director, School Education Department Kashmir. He, however stated that his case was taken up with the Director School Education, Kashmir (DSEK) vide CEO

Budgams' letter dated 11.08.2017. The PIO also submitted that his case regarding settlement of grievance pertaining to the intervening period was earlier disposed of by the DSEK vide Order No. 1601 DSEK of 2010 dated 27.08.2010. In his communication to the Commission, the CEO Budgam has stated that the appellant has been agitating in the department for many years regarding his various grievances and has approached various forums for its settlement notwithstanding the Director School Education, Kashmir's Order dated 27.08.2010. Accordingly, the hearing in the 2nd appeal was adjourned with the following directions:-

"The record available on the file has been perused and both parties heard. The appellant has been agitating with his grievance relating to the settlement of a period between 1995-2005 as he was first promoted as Master in the year 1999 then reverted due to non-joining and again promoted in 2005. He is claiming emoluments pertaining to grade increments/promotions/ arrears/ leave salary etc which the department seems to have rejected vide DSEK Order No. 1601 DSEK of 2010 dated 27.08.2010. The PIO could not present any good reason for not having replied to the RTI application of the appellant. The present CEO Shri Ab. Rouf Shahmiri has joined in July 2017, which is just about 2 months back. The PIO at the time of filing of RTI application in the month of March, 2017 was one Shri Inderjeet Singh who is now posted in Jammu Division and is still working in the Department. The conduct of the then PIO/CEO Budgam Shri Inderjeet Singh has been found to be unprofessional in dealing with this RTI as no reply whatsoever has been given to the RTI applicant nor has his First appeal been appropriately disposed or

sent to the appropriate First Appellate Authority (FAA) i.e., the Jt. Director School Education Department. For this reason and on these grounds, the then PIO Shri Inderjeet Singh deserves to be proceeded against in terms of Section 17 of the J&K RTI Act for imposition of penalty. However, it is felt appropriate that before proceeding in the matter under Section-17, an opportunity of being heard has to be given to the said the then PIO'.

The 2nd appeal came up for hearing today on 25.10.2015. Mr Ab. Raouf Shahmiri, PIO/CEO Budgam, Mr Inderjeet Sharma, Principal DIET, Doda Ex-CEO Budgam and the appellant Shri Ghulam Nabi Qureshi attended the hearing. During the proceedings, the appellant submitted that he did not receive any reply from the PIO after directions of the Commission passed vide order dated 15.09.2017. The PIO submitted that in compliance to the directions of the Commission, he has compiled updated information and the copy of the same has been posted at the address of the information seeker. During the proceedings, one more copy of the information was proved to the appellant. The PIO produced copy of the letter dated 23.10.2017 addressed to the Commission with copy to the appellant by which the information, in compliance to the directions of the Commission, has been provided to the appellant.

In pursuance to the directions of the Commission, Shri Indjerjeet Sharma, Principal DIET Rajouri, the then Chief Education Officer Budgam against whom proceedings were initiated under Section-17 of the J&K RTI Act attended the hearing. During the proceedings, he submitted that the RTI application of the appellant was processed and the information pertaining to grievance of the appellant was sought from subordinate offices, which resulted in delay and meanwhile he was transferred and

posted as Principal DIET, Rajouri. The then PIO has submitted written explanation during the proceeding in the Commission.

Decision:

Heard parties at length and records were perused. The PIO/Chief Education Officer, Budgam has provided the updated information to the appellant during the proceedings who expressed satisfaction with the same. The then PIO Shri Inderjeet Sharma has filed explanation for not disposing of the RTI application within the stipulated time. From the explanation of the then PIO, it transpires that he has not slept over the matter but has processed the RTI application of the appellant and tried to resolved the grievance of the appellant. As such, it appears that the then PIO had no malafide intention to withhold the information which was later on provided to the appellant. The grounds for delay submitted by the then PIO appear to be reasonable/justifiable one. Therefore, the proceedings initiated against him under Section-17 of the J&K RTI Act are hereby dropped.

The 2nd appeal is disposed of accordingly.

Sd/-
(Mohammad Ashraf Mir)
State Information Commissioner

Copy to the:

1. PIO/CEO Budgam
2. Principal DIET Doda Ex-CEO Budgam
3. Pvt. Secretary to HSIC (K)

4. Appellant—Sh. Gh. Nabi Qureshi, Ex-Master High School Poshkar R/o Aripanthan, Budgam
5. Office file

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