



**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/53/2017  
Decision No. SIC/K/SA/53/2017/**69**

### **Final Order**

Appellant : Prof Ab. Gani Bhat.  
Respondent : First Appellate Authority (FAA)/Public Information Officer BSNL Ltd.  
Date of Registration : 26.07.2017  
Date of Decision : 21.11.2017

### **Background details:**

The brief facts of this 2<sup>nd</sup> appeal are that this was filed in the State Information Commission (SIC) by Prof. Ab. Gani Bhat, R/o H. No.8 Pamposh Lane Natipora, Srinagar Versus FAA/PIO BSNL Srinagar on 11.05.2016.

In the memorandum of the appeal, the appellant has stated that he had filed an RTI application with the PIO, BSNL Srinagar on 29.11.2016 seeking the following information:

1. Attested copy of my application dated 29.10.2016 to General Manager about disconnection of my broad-band and phone etc. and orders passed/action taken thereon.
2. My application dated 14.12.2010 and 01.11.2011 for return of my money of RS 1800/- for Wi-Fi II and rebate for period when my broad band was out of order.
3. My complaints dated 07.12.2011 and dated 23.03.2013 to General Manager BSNL about the above matters.
4. My complaint dated 02.08.2013 to General Manager BSNL about the matters, which was placed before Telephone Adalat on 10.09.2013. Order copy and outcome of the Telephone Adalat there on.
5. Whether the above said amount of Rs 1800 for Wi-Fi II has ever been adjusted against any of my unpaid bills. If yes, give the bill number and date and the amount against which the amount has been adjusted.
6. Has the BSNL stopped sending rent bills to its subscribers after the Supreme Court passed judgment in 2010 that BSNL does not fall under RTI act. Has the BSNL been bestowed with arbitrary and discretionary powers to disconnect any service line at its whims and caprices, without informing the subscriber in writing about its intentions?
7. How long my Broad band/telephone 2430806 remained cut from 20.11.2016, what were the reasons? Give full details. What happened to my complaint No.6103528908?
8. Allow examination of the file containing above documents.

The appellant filed the instant 2<sup>nd</sup> appeal before the SIC on 11.05.2017. After completion of deficiencies, the 2<sup>nd</sup> appeal was finally admitted on 26.07.2017. The appellant in his 2<sup>nd</sup> appeal stated that PIO BSNL Ltd. failed to provide the information and examination. Thereafter, the appellant filed the First Appeal on 03.01.2017 with the FAA, BSNL, Srinagar but the same was not disposed of. That the Respondents FAA/PIO BSNL Ltd. have taken the RTI Act for granted and in this background the appellant has filed the instant 2<sup>nd</sup> appeal before the SIC with the Prayer:

- i. The Respondents may be directed to pay to the appellant damages to the tune of Rs 50 thousand for denying him his constitutional right to information by not providing the information sought for, and for the mental agony, pain and torture, and for loss of time, energy and his hard earned money.
- ii. The statutory penalty under Section 17 of the J&K RTI Act may be imposed on the respondents.
- iii. Recommendations may be made to the appropriate authority under Section 17(2) of the Information Act for initiating disciplinary proceedings against the Respondent 1 & 2.
- iv. The information/documents called for may be directed to be provided to the appellant forthwith.
- v. Pass any further order or direction as the Commission may deem fit and proper under the facts and circumstances of the case.

The 2<sup>nd</sup> appeal came up for hearing first time on 30.08.2017. Respondents were represented by Mr G G N N Sharma, SDE (General) O/o General Manager, BSNL Srinagar, Mr Nazir Ahmad Mir Office Superintendent O/o AGM (Administration) BSNL Srinagar and the appellant attended the hearing. The PIO and the FAA did not attend the hearing. The appellant attended the hearing. The Commission took serious notice of the absence of the respondents and lack of any justification for such absence. The representatives of the PIO/FAA were asked to convey the observation of the Chief Information Commissioner, J&K to the PIO/FAA BSNL, Srinagar and ensure personal presence on the next date of hearing. The BSNL representative had brought copies of the letters dated 17.08.2017 addressed to the Dy. Registrar SIC as counter statement to the appeal interalia stating as under:

- 1. As per records the telephone No.2430806 was not disconnected.*
- 2. Both the applications has already been disposed off and informed the applicant on 05.05.2015 and 03.06.2015*
- 3-4 Justification given above.*
- 5. An amount of Rs 1800/- for Wi-Fi modem has been adjusted in the month of January, 2015.*
- 6. The telephone connections will be disconnected due to non-payment of bills after due date of bills.*
- 7. Your complaint dated 21.11.2016 has been disposed of on 25.11.2016*

The counter reply also enclosed two previous communications from the PIO, one addressed to the Registrar of the SIC and Prof. Ab. Gani Bhat dated 08.06.2015 and another addressed to Dy. Registrar SIC dated 05. 05.2015. These pertained to previous RTI and 2<sup>nd</sup> appeal of the appellant Prof. Ab. Gani Bhat. Both these communications intimated about damage to office records of BSNL due to 2014 floods and the decision of the Telephone Adalat regarding rebate in the telephone bill and adjustment of Rs 1800/- deposited by the appellant for modem, Wi-fi against telephone bills.

*The first 60 days since the date of filing to this 2nd appeal expired on 25-09-2017. But in view of the need for conduct of more hearings for appropriate and judicious disposal of the appeal, the time period for disposal was extended by another 60 days upto 23-11-2017 in terms of proviso to Sub-section-11 of Section-16 of the J&K RTI Act, 2009.*

The 2<sup>nd</sup> appeal came up for hearing second time on 13.10.2017. Respondents were present excluding the FAA. The appellant did not attend. The time period for disposal of the appeal was also extended in terms of Section 16(11) to ensure more hearings of the parties for a judicious and appropriate disposal under the Act. Vide decision of the SIC dated 13.10.2017, the SIC took a serious notice of the continued absence of the FAA. The hearing in the 2<sup>nd</sup> appeal was adjourned interalia with the following directions:

1. The reply dated 17.08.2017 which is excessively delayed is neither complete nor satisfactory. Therefore, a fresh reply will have to be prepared and sent to the appellant with copy to the State

Information Commission (SIC) within a period of 7 days from the date of receipt of this order. The appellant shall also submit a rejoinder to the said reply, if any, for consideration by or before the next date of hearing.

2. The First Appeal filed on 3<sup>rd</sup> January, 2017 before the FAA BSNL has not been disposed of by the FAA and no orders have been issued for its disposal within the time limit as stipulated in Section-16 of the J&K RTI Act, thereby violating the provisions of the Act. The FAA, BSNL, Srinagar will, therefore, have to file a reply to explain as to why he failed to dispose of the First Appeal within the prescribed period in terms of Section-16 of the Act.

The 2<sup>nd</sup> appeal again came up for hearing on 14.11.2017 which was attended by the appellant Professor Ab. Gani Bhat, Mr G G N N Sharma, SDE (General) O/o General Manager, BSNL Srinagar, Mr Hasan Rasheed, AGM (Administration) BSNL Srinagar and Mr Nazir Ahmad Mir Office Superintendent O/o AGM (Administration) BSNL Srinagar. After hearing the parties, the hearing in the 2<sup>nd</sup> appeal was adjourned with the following directions:-

- a) The PIO will update the reply in the light of the specific queries of the RTI application and points/objections raised by the appellant during the hearing on 14.11.2017. The same may be dispatched to the appellant before 21.11.2017.
- b) The file pertaining to the RTI application may be kept available for inspection by the appellant. Documents related to the RTI

application and pertaining to pre-2014 floods period may be traced from the available record and offered for inspection.

The 2<sup>nd</sup> appeal came up for final hearing on 21.11.2017 which was attended by the appellant and the respondents from the BSNL Srinagar excluding the FAA. The PIO informed that in compliance with the directions of the SIC issued on 14.11.2017, they had prepared and updated reply dated 14.11.2017, which was sent to the appellant by registered post to his residential/postal address. The appellant denied to have received the updated reply dated 14.11.2017. An attested copy of the said reply along with enclosures was then got handed over to the appellant during the hearing. The appellant, however, expressed his dissatisfaction with the updated reply dated 14.11.2017 and insisted that his fresh representation/written submissions be taken for directions/orders of the SIC. Through the written submissions dated 21.11.2017 submitted during the hearing on 21.11.2017, the appellant again expressed dissatisfaction with the disposal so far of his RTI application by the PIO BSNL. In the written submissions, the appellant has stated as under:

1. Application for information and examination was made to PIO BSNL, Srinagar Circle office one year back on 29.11.2016 but the information was not provided nor any reply was given. First Appeal was also filed on 03.01.2017, which also was not disposed of.
2. I filed appeal before the Commission on 11.05.2017 and the PIO has now risen from the deep slumber and had provided some

hodge podge information on 07.11.2017 which was discussed before the Commission on 14.11.2017.

3. In the reply about Point 1 of my RTI application they have said that the application was not available in their office. On 14.11.2017 they were informed that the date is 29.11.2016 and not 29.10.2016, so the Commission directed them to reply that letter which they have not provided till today.
4. They did not provide disposal/action taken report on the letters at point 2 of my application and did not reply to the 2<sup>nd</sup> part of the point.
5. They did not provide disposal/action taken report on my application at point-3 of my application.
6. They did not provide disposal/action taken report on my application at point-4. The so called order/decision of the so called Telephone Adalat is a farce.
7. About the illegal retention of my Rs 1800 from 13.12.2010 (at Para 5 of the application) by the BSNL, they have said that they have adjusted that amount with the bills on 30.01.2015, that also without ever informing me, and that also without any compensation to me. They have provided some blurred and dark two pages of minute letters, which are not legible and one cannot make out anything from them. They have not provided that year's payment sheet of my rent along with the rent bills, which would have shown the corrections position.
8. About point 6 they have made a blatantly false statement that they are sending bills to the customers. They deserve to be

booked under RTC Section 191 and 193 for making false statement before this August Commission.

9. About the non-appearance of FAA they have advanced false and untenable alibis.
10. The documents they have provided are not even attested.
11. It is common place for the BSNL Srinagar Circle Office that they are habitual in ignoring the RTI applications of the Citizens of Kashmir and have not obeyed and implemented even the previous decision of this august Commission dated 19.05.2015, thereby defeating Article 19 of the Constitution and the RTI Act. While the respondents may be directed to provide full and complete information and examination of the information, and the Commission may monitor that event, imposition of statutory penalty has got fully confirmed on them, which may be imposed on them and paid to the appellant. The respondents may be directed to provide a compensation of two lakh rupees to the appellant.

A copy of the written submissions was handed over the PIO, BSNL Srinagar during the hearing on 21.11.2017.

**Decisions:**

This 2<sup>nd</sup> appeal has been heard at length in the SIC on four occasions i.e., on 30.08.2017, 13.10.2014, 14.11.2017 and 21.11.2017. On each occasion, directions were issued to the PIO BSNL to provide information to the appellant as per his RTI application. The PIO BSNL, Srinagar has provided the replies

based on available record while taking the stand that certain previous complaints of the appellant and information sought for is not available due to washing away of BSNL Office records in the floods of 2014.

There is no reason to believe that the PIO, BSNL is deliberately holding back available information which has been sought for. It will also not be justified to impose penalty since the PIO, BSNL along with other staff of the BSNL have been trying to collect and compile as much information as possible for providing the same to the appellant.

It is also a fact that the BSNL office at Srinagar near MA, Road was flooded in 2014 and records may have been washed away. This contention of the BSNL cannot be disbelieved unless the appellant has information to the contrary. Vide their letter No. RTI/2/Ab. Gani/2014/11 dated 05.05.2015, the AGM/PIO has clarified to the appellant as under:-

***"Admitted. It is mentioned here that due to recent floods in Kashmir Valley your good self is also aware that all the records in all offices in Kashmir valley have been destroyed/scattered and with the same reasons we cannot provide the information to the appellant within time. However, after lot of persuasion for tracing of files/records in the offices we were able to submit the information to the appellant (Reply attached). In addition to that it is***

***traced out that the rebate has been made to applicant for Rs 1800/- in the month of January 2015 for Wi-Fi modem in the light of his application before telephone Adalat."***

The appellant's dissatisfaction with the replies is also linked to unsettled grievances as a customer/consumer which have been addressed by the Telephone Adalat. His demand for compensation is linked to holding back of his deposit for Wi-Fi modem by the BSNL and delay in the redress of his grievances.

With a view to redress the grievances of the appellant, the BSNL through its GM at Srinagar is advised to consider the contents of the written submission of the appellant dated 21.11.2017 (copy handed over to PIO, BSNL during the hearing on 21.11.2017) for any more rebate or compensation that may accrue to the appellant as a consumer/customer whose various grievances reportedly remain unaddressed

Keeping in view the above, the written submissions made by the appellant on 21.11.2017 (a copy of which was handed over to the PIO) and notwithstanding the information provided by the PIO so far and in terms of powers vested in the SIC under Section 16(9)(a), following directions are issued to the Public Authority i.e., BSNL through its GM at Srinagar for appropriate follow up action and compliance:

- i. Allow inspection of the available record pertaining to the information sought by the appellant vide his RTI application dated: 29.11.2016.
- ii. A written response to the written submissions of the appellant dated 21.07.2017 may be sent to the appellant with a copy to the SIC within a period of 30 days from the date of receipt of this order for record and reference.
- iii. The Public Authority i.e. BSNL Srinagar through its GM is also directed to take appropriate steps for implementation of the provisions of Section-4 for suo moto and mandatory disclosure of information for the convenience of its customers.

The Public Authority through its GM, BSNL Srinagar shall also respond to the serious allegation at Para-8 of the written submission where it is stated that the BSNL in Srinagar does not send bills to the consumers. If the BSNL is in default in this regard, it must take necessary steps to set the things right as per its rules and regulations pertaining to billing and bills.

- iv. Lastly, the GM BSNL, Srinagar is once again directed to submit his reply as to why he failed to dispose of the First appeal of the appellant dated 03.01.2017 and also as to why he repeatedly failed to attend the hearings before the Commission on 30.08.2017, 13.10.2017, 14.11.2017 and 21.11.2017.

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

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

Copy to the:-

1. First Appellate Authority Bharat Sanchar Nigam Ltd. Srinagar
2. Public Information Officer, Bharat Sanchar Nigam Ltd. Srinagar
3. Appellant— Prof. Ab. Gani Bhat, R/o H. No.8 Pamposh Lane  
Natipora, Srinagar
4. Guard File

**(M.S. Bhat)**  
**Dy. Registrar,**  
**J&K State Information Commission, Srinagar**