



Jammu and Kashmir State Information Commission
(Constituted under the Right to Information Act, 2009)
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File No. SIC/K/SA/43/2017/
Decision No. SIC/K SA/43/2017/**70**

Final Order

Appellant : Sh. Bilal Ahmad Kar

Respondent : First Appellate Authority (FAA),
Superintending Engineer (R&B) North Circle
Baramulla/Kupwara and Public Information
Officer (PIO), Executive Engineer (R&B)
Division Baramulla

Date of Registration : 28.07.2017

Date of Decision : 21.11.2017

Brief Facts:

The brief facts of the case are that Shri Bilal Ahmad Kar, President J&K Social Activists Forum R/o Noor Bagh, Baramulla filed the 2nd appeal against the Chief Engineer PWD (R&B) Kashmir/FAA and the PIO O/o Superintending Engineer PWD (R&B) North Kashmir before the Commission on 17.04.2017. The appellant has alleged that the PIO O/o SE PWD (R&B) Baramulla has refused to provide him information sought vide his RTI application dated 28.09.2016. Thereafter, the FAA vide letter dated

11.11.2016 directed the concerned PIO to provide him the information, but no information has been provided to him. The appellant has requested the Commission to direct the concerned PIO to provide him the desired information and impose penalty upon him for violation of provisions of the J&K RTI Act, 2009.

As per records of the 2nd appeal, the appellant vide RTI application dated 28.09.2016 has sought information on ten points from the SE PWD (R&B) North Circle Baramulla/Kupwara. Thereafter on 2.11.2016, he has filed the First Appeal against the inaction of the PIO. Lateron, he has approached the Commission with the instant 2nd appeal against the respondents.

On scrutiny of documents, the 2nd appeal was found barred by limitation. The Commission was pleased to condone delay on 28.07.2017 and accordingly the 2nd appeal was admitted from that date.

The 2nd appeal came up for hearing for the first time on 21.08.2017. Er. Tariq Abdullah Saraf, Technical Officer (TO) to Superintending Engineer, PWD (R&B), Circle, Baramulla attended on behalf of FAA/SE PWD (R&B), Circle, Baramulla who vide letter dated 19.08.2017 has sought exemption from personal appearance in view of inauguration/laying of foundation ceremony being held at Kupwara by the Hon'ble Chief Minister on 22.08.2017 . Appellant, Shri Bilal Ahamd Kar attended the hearing.

The FAA/SE PWD (R&B), Circle, Baramulla has through a written note forwarded the status of RTI application to the Commission, which is taken on record. During the hearing, It was noticed by the Commission that FAA/SE PWD (R&B), Circle, Baramulla has not disposed of

the First Appeal in terms of the provisions of the J&K RTI Act, 2009 (Section-16) , but has disposed of the appeal in a casual and typical bureaucratic way. Although, the procedure has clearly been laid down under Section-16 of the J&K RTI Act, 2009 for all FAAs to follow in First appeals, the FAA has not followed the said procedure in this case.

None of five the PIO's (concerned Executive Engineers) of the PWD (R&B) circle Baramulla attended the hearing on that date as they were not intimated to do so by the Registry of the Commission. PIOs were directed to furnish the requisite information to the SE, R&B Baramulla to enable him to compile the requisite information for providing the same to the appellant.

The 2nd appeal was listed on 30.10.2017. The hearing was attended by the appellant Mr. Bilal Ahamd Kar. FAA did not attend the hearing. The appellant submitted during the proceedings that he did not receive any information pertaining to the RTI application. On the last date of hearing viz 21.08.2017, the SE R&B, Baramulla/FAA was directed to compile the requisite information from all the PIOs for providing the same to the appellant, but the appellant has produced a letter No.8110-19 dated 22.08.2017 whereby appellant has been asked to remit the necessary fees with the PIOs (Divisional Offices) immediately failing which his plea/right for seeking the information shall get forfeited. The Commission was surprised to see this letter as the PIOs were directed to furnish the requisite information to FAA to enable him to compile the requisite information for providing the same to the appellant. The appellant was not required to go to each PIO. A serious view was taken by the Commission to this communication.

The hearing in the 2nd appeal was adjourned with directions to the Registry to issue show cause notice to the FAA and all the concerned PIOs to explain as to why proceedings under Section-17 of the J&K RTI Act, shall not be initiated against them for not complying with the directions of the Commission. The FAA/PIOs were directed to compile the information and provide the same to the appellant before the next date of hearing. Besides the Registry was directed to issue notice to the FAA and all concerned PIOs for their personal appearance before the Commission on 21.11.2017.

The 2nd appeal came up for final hearing today on 21.11.2017. Mr. Ab. Majid Khan, FAA/SE PWD (R&B) Baramulla, Mr. Gurdav Singh, Executive Engineer, PWD (R&B), Kupwara, Mr. Bashir Ahmad Bhat Executive Engineer, PWD (R&B), GDA, Mr. Shahijehan Mohammad Executive Engineer, PWD (R&B), Uri, Mr. Javaid Ishaq Tara Executive Engineer, PWD (R&B) Baramulla, Mr. Ajit Singh Executive Engineer, PWD (R&B) Handwara and appellant Mr. Bilal Ahmad Kar attended the hearing. During proceedings, Er. Ab. Majid Khan, FAA/SE PWD (R&B) Baramulla submitted that in compliance to the directions of the Commission, the information sought by the appellant was compiled from all the Divisions/ Sub-Divisions of his Circle and was provided to the appellant vide letter dated 03.11.2017. The appellant admitted to have received the information. However he alleged that some of the information sought has not been provided to him. The Commission went through the contents of the RTI application and perused the information provided to the appellant. It was final that all the information as sought by the appellant has been provided to the appellant. As such, no further proceedings are required in

the instant 2nd appeal and the appeal filed before the Commission is accordingly disposed of.

Sd/-

(Mohammad Ashraf Mir)
State Information Commissioner

Copy to:

1. FAA/SE PWD (R&B) Baramulla,
2. PIO/Executive Engineer, PWD (R&B), Division, Baramulla
3. Executive Engineer, PWD (R&B Division, Kupwara/ Uri/GDA/ Handwara
4. Appellant—Shri Bilal Ahmad Kar, S/o Late late M. Maqbool Kar (Presently, President J&K Social Activists Forum) R/o Noor Bagh, Baramulla
5. Office file

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