



Jammu and Kashmir State Information Commission

(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/J/A/70/2017

Decision No. SIC/J/A/70/2017/**1010**

Final Order:

Appellant : Sh. Mohammad Arif Dar, S/o Mohammad Sharief,
R/o H.No-64 Ward No-9 Ustad Mohalla, Jammu.

Respondent : FAA/PIO, Custodian Evacuee Property Office, Jammu.

Date of decision : **24-11-2017**

Decision : Appeal disposed of.

Brief Facts:

Briefly the facts of this appeal are that the appellant while exercising his right to information filed RTI application dated 03-04-2017 with the Public Information Officer, (PIO) Custodian Evacuee Property Office, Jammu seeking following information:

- 1. The certified legible copy of the order dated 30-08-1963 passed by Assistant Custodian (Tehsildar), Akhnoor on application titled "Manzoor Begum D/o Ahmed Din W/o Master Mohammad Sharief R/o Mohalla Ustad Jammu Vs. State" attached with file No. 18 which has been submitted by Assistant Custodian Akhnoor to your office.*

His RTI application was transferred by Custodian Evacuee Property, Jammu to the Tehsildar, (Assistant Custodian) Akhnoor on 15-04-2017 for directly providing the information to the appellant.

As the appellant did not get the requisite information, he filed 1st appeal with Custodian General Evacuee Property/First Appellate Authority (FAA) on 05-06-2017. The FAA also failed to dispose of the 1st appeal which constrained the appellant to approach the State Information Commission (SIC) in 2nd appeal which was received in the SIC on 29-08-2017.

Proceedings before the State Information Commission(SIC):

The 2nd appeal came up for hearing before the SIC on 24-11-2017. The hearing was attended by Sh. Mushtaq Hussian Malik, Public Information Officer (PIO) Custodian Evacuee Property, Jammu and the appellant. The appellant submitted that his RTI application dated 03-04-2017 was transferred by the PIO to Tehsildar (Assistant Custodian) Akhnoor, for furnishing the information directly to him but despite that he has not received the information as yet from any quarter. He also informed that information does not relate to any third party as Smt. Manzoor Begum was his own mother and therefore he has a direct stake in the information sought for. The PIO submitted that the information as sought for by the appellant is lying with Tehsildar, Akhnoor, as such the later was asked to provide the same to the appellant.

The SIC heard both the parties and record was also perused.

Decision:

The SIC observed that the PIO Custodian Evacuee Property, Jammu to whom the RTI application was made has not handled the same appropriately. He has transferred the RTI application to Tehsildar Akhnoor for providing the information to the appellant in violation of section 5(3) and 5(4) of the Act. He should have invoked section 5(4) of the J&K RTI Act, 2009 by seeking an assistance from the said Tehsildar /Assistant Custodian if the information was lying there and then after collecting the same should have provided it to the appellant. The J&K RTI Act, 2009 makes the PIO a pivot for providing the requisite information to the information seekers. The PIO cannot and should not shift his responsibility by merely forwarding the RTI application to another PIO who is otherwise subordinate to him in hearachy . in such cases, information can be sought from the concerned by invoking section 5(4) instead of transferring under section 6(3)

Under section 5(3) it is the PIO who himself has to deal with the RTI application and provide all the requisite assistance to the applicants and any failure on his part in this regard is a violation of the RTI Act.

The SIC therefore, directs the PIO, Custodian Evacuee Property, Jammu to collect the requisite information from the concerned quarters and provide the same to the appellant within 15 days from the date of receipt of this order. Appellant is at liberty to file a complaint under section 15 of the Act in case of any non-compliance on the part of the PIO.

The 2nd appeal is disposed of subject to the above directions.

Copy of the order be provided free of cost to the parties.

-sd/-
(Khurshid A. Ganai) **IAS Retd.**,
Chief Information Commissioner,
J&K State Information Commission.
/imi/

No. SIC/J/A/70/2017

Dated: / /2017.

Copy to the:

1. First Appellate Authority (FAA) Custodian General Evacuee Property, Jammu for information and compliance.
2. Public Information Officer (PIO), Custodian General Evacuee Property, Jammu for information and compliance.
3. PS to CIC for information of HCIC.
4. Sh. Mohammad Arif Dar, S/o Mohammad Sharief R/o H.No-64, Ward No-09, Mohalla Ustad, Jammu.
5. Guard file.

(Dr. Ghulam Mohi-ud-din)
Joint Registrar,
J&K State Information Commission.