



Jammu and Kashmir State Information Commission

شنیشن کمیٹی انفارمیر اسٹینڈ کشمیر جموں ا

(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/CO/SA/480/2017

Decision No. SIC/CO/SA/480/2017/1024

Final Order

(2nd Appeal)

Appellant : Sh. Ved Parkash Sharma.

Respondents : First Appellate Authority (FAA)/
Public Information Officer (PIO), O/O Directorate of
Archives, Archaeology and Museums, J&K.

Date of Registration : 03.07.2017

Date of Decision : 23.10.2017

Brief Facts:

The appellant Sh. Ved Parkash Sharma, Ex-I/C Superintendent, R/o. Badyal Brahmana, Tehsil R.S. Pura, Jammu filed RTI application dated: 25.11.2016 before the PIO/Registrar, National Register of Records, O/O Archives, Archaeology and Museums seeking following information:

- (i) Copy of the recommendation made by Assistant Director State Archaeology Srinagar on the basis of which order NO. DAMA-33/AD-1/94 Dt. 21.5.1994 was issued.
- (ii) Copy of letter NO. ROA-73/PF-26/dt. 6.5.1994.

- (iii) *Copy of the order by virtue of which the grade of (1400-2600/5000-8000 pre-revised/9300-34800=4200GP revised) was released in favour of Mohammad Yousuf against the post of Photographer State Archaeology, Srinagar.*
- (iv) *The amount of arrear paid, if any during the course of promotion to Mohammad Yousuf Photographer.*
- (v) *Name of the officer who was functioning as Assistant Director State Archaeology, Srinagar during the year 1994 (January 1994 to Dec. 1994).*
- (vi) *Whether the post of photographer, State Archaeology wing, Srinagar referred to SSRB, if yes provide the information.*

He then filed the First Appeal on 01.02.2017 before the FAA, O/O Directorate of Archives, Archaeology & Museums on 01.02.2017 on the grounds that incomplete information had been provided to him.

The FAA/Director, Archives, Archaeology & Museums disposed of the First Appeal on 14.03.2017 with the directions to PIO to provide the remaining information within a period of two weeks time. The PIO and the appellant Sh. Ved Parkash both attended the hearing before the FAA, as per the order of the FAA dated: 14.03.2017.

Not satisfied with the information sent to him by the PIO vide letter dated: 30.03.2017, the appellant filed second appeal before the Commission on 03.07.2017. In the said appeal, the appellant has alleged that the information provided to him by the PIO after disposal of his First Appeal by the FAA, was incomplete and incorrect.

The second appeal first came up for hearing on 01.09.2017 and later on 16.10.2017 in which it was informed by the FAA and PIO that information on Point No. IV has been sent to the appellant on 13.10.2017 in compliance to the Commission's order dated: 01.09.2017.

This 2nd appeal was filed in the SIC on 03.07.2017 but with a view to hear all the parties and for appropriate final disposal of the appeal, the time period for disposal was extended by another 60 days upto a maximum of 120 days from the date of filing of the appeal in terms of section 16(11) of the J&K RTI Act, 2009 in the SIC's Interim Order dated: 01.09.2017.

The hearing on 23.10.2017 was attended by the FAA/Director, Directorate of Archives, Archaeology and Museums Sh. M.S. Zaid, PIO/Deputy Director, Archives, Archaeology and Museums, Jammu Sh. Mushtaq Ahmed Beigh and the appellant was heard through Video Conferencing from Jammu office of the SIC.

The FAA/Director, Directorate of Archives, Archaeology and Museums in his written communication dated: 23.10.2017 addressed to the Joint Registrar, J&K State Information Commission has stated as under in compliance to SIC interim orders:

- “ 1. *Admitted.*
2. *The information in respect of Point no: V of the RTI application of the information seeker has been submitted to him through registered post. A copy of postal receipt is annexed for reference.*

3. *In addition, as stated at S.No. 2 it is submitted that the information may be in transit of post and telegraph department.*
4. *The most of records of the department has been washed away during the flood of September 2014. The information at S.No. 3 of his RTI application has met same fate. Same has been intimated to the information seeker."*

Decision:

The State Information Commission (SIC) has heard the appeal on three occasions. The FAA/Director, Directorate of Archives, Archaeology and Museums has himself attended all the hearings. He has assured that information as was available on records has been provided. He has also stated that information in respect of S.No. 3 of the RTI application cannot be provided since the records of the Department 'were washed away during the floods of 2014.'

In the light of these assertions of the FAA/Director, Directorate of Archives, Archaeology and Museums who is also prepared to give an affidavit in support of his statement/assertions about washing away of records in the floods, there is no room for further directions in the matter as it is a settled issue in RTI law that only that information can be provided which is available or can be accessed. Information that is neither available nor can be accessed cannot be provided. Therefore, the appeal is disposed of with last direction to the PIO

to provide the remaining information or submit an affidavit to the Registry of the Commission for placing on records to the effect that information not provided so far is not available with the Public Authority.

*With the above directions, the 2nd appeal is disposed of.
Copy of this decision be given free of cost to the parties.*

Sd/-

(Khurshid A. Ganai) IAS Retd.
Chief Information Commissioner
J&K State Information Commission

(P.A. Ajay)

No: SIC/CO/SA/480/2017_____

Dated: . . .2017

Copy to:

1. FAA/Director, Archives, Archaeology and Museums for information and necessary action.
2. PIO/Deputy Director, Archives, Archaeology and Museums for information and necessary action.
3. PS to HCIC for information of the HCIC.
4. Appellant/Sh. Ved Parkash Sharma, Ex-I/C Superintendent, R/o. Badyal Brahmana, Tehsil R.S. Pura, Jammu for information.
5. Office file.

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