



Jammu and Kashmir State Information Commission

شہن یشن کمیٹ انفارمیری اسٹیٹسٹ کشمیری 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/500/2017

Decision No. SIC/CO/SA/500/2017/1026

Final Order
(2nd Appeal)

Appellant : Sh. Khurram Parvez.
Respondents : First Appellate Authority (FAA)/
Public Information Officer (PIO), School Education
Department, Civil Secretariat, Jammu/Srinagar.
Date of Registration : 14.08.2017
Date of Decision : 13.12.2017

Brief Facts:

The appellant Sh. Khurram Parvez, R/o. House No. 1, Gupkar Road, Srinagar 190001 while exercising his right to information filed RTI application dated: 01.03.2017 with the PIO, School Education Department, Civil Secretariat, Jammu/Srinagar seeking information on the following 06 points relating to all government and private schools (upto +2 level) in Jammu and Kashmir for the time period of 1989 to the date of filing of the RTI application:

- (i) *Year-wise break up of the total number of scheduled and announced academic working days as per the academic calendar.*

- (ii) *Year-wise break up of the number of days when the schools actually had a full working day.*
- (iii) *For working days when the schools did not actually function, please indicate the reason, i.e. strike, curfew etc.*
- (iv) *Number and details (name and location) of the schools occupied, in part or full by armed forces (including paramilitary forces). Please indicate the time period for which these schools were occupied. Please also indicate the specific details of the armed forces in occupation of the school, for example the Battalion number. Please also indicate and provide the official documentation by which the government allowed the occupation of these specific schools.*
- (v) *Number and details (name and location) of the schools damaged and or destroyed, in part or full. Please provide the reason for damage and/or destruction. Please indicate and provide details of any legal action following the damage and/or destruction i.e. FIR number etc. (please also provide a copy of the FIR and other legal documents). Please also indicate whether the schools continued to function due to this destruction and or damage and for what period they remained closed.*
- (vi) *What measures have been taken by the state education authority to meet the mental health needs of students who are suffering due to the ongoing conflict?*

Aggrieved by the non-response of the PIO, the applicant (now appellant) filed First Appeal with the FAA, School Education Department, Civil Secretariat, Jammu/Srinagar on 26.04.2017. The FAA vide its order dated: 08.06.2017 dismissed the First Appeal filed by the applicant (now appellant) on the ground of non-appearance of the appellant. Aggrieved by the disposal of the First Appeal by the FAA, the appellant approached the State Information Commission (SIC) by filing 2nd Appeal which was admitted on 14.08.2017.

Proceedings:

This 2nd appeal was admitted in the SIC on 14.08.2017 and first sixty days expired on 14.12.2017 but owing to the need for conduct of more hearings for appropriate and final disposal of the appeal, the time period for disposal was accordingly extended by another 60 days up to a maximum of 120 days from the date of admission of the appeal in terms of Section 16 (11) of the J&K RTI Act, 2009.

The instant 2nd Appeal came up for hearing before the State Information Commission (SIC) on 30.11.2017. The hearing was attended by Sh. Irfan Mehraj (representative of the appellant) whereas the respondents (FAA/PIO, School Education Department) were absent.

The hearing was adjourned with the following observations/directions:

“The stand of the PIO/FAA of the School Education Department was considered. Clearly, part of the Information at Paras 4 & 5 has always been held by the State Government and it is therefore not understandable as to how the School Education Department is now denying to be ‘not in possession’ of any information at this point of time. It is almost universally known that the State Government has been making efforts for the last many years to have the School buildings vacated from the occupation of the Security forces and also to repair and restore the damages to enable their reuse. The Commission, therefore, does not, as of now, accept the stand taken by the School Education Department vis-à-vis the information sought at Paras 4 & 5, of the RTI application. The School Education Department is expected to be in possession of the basic information about the Schools that were or are still under the occupation of the Security forces, how many have got vacated so far, what expenditure has

been incurred on repairs and restoration and how many such schools are now back in use with the department.

As far as the information at Paras 1, 2 & 3 is concerned, this information may not be immediately available with the Department and, therefore, the Department is free to take a stand which they have taken, if there is no easy way to collect this type of information.

As far as Para-6 is concerned the Department should have provided the information about whatever effort it is making for the welfare and mental health of the school students. Surely, the School Education Department is involved in the task of personality development of the students in addition to imparting formal education etc. Therefore, information about this effort must be provided.

In the light of the observations above, it is necessary to give an opportunity to the School Education Department to respond to these through a written statement as also orally in the next hearing."

The appeal was listed for final hearing before the Commission on 13.11.2017. The hearing was attended by FAA/Sh. Mahesh Chander Tana, Financial Advisor/CAO, School Education Department and the PIO/Sh. Javaid Ahmad Reshi, Under Secretary to Government, School Education Department. Mr. Irfan (representative of the appellant) was heard through Video Conferencing from Srinagar office of the Commission.

The PIO and the FAA have submitted the counter statement which reiterates that the information with regard to para 4 and 5 is not readily available with the Department and they be given more time to collect this information and provide to the concerned. As regards para 6 they have submitted as under:

“that the department has already constituted ‘counseling cells’ at Directorate level for coordinating counseling activities of school-going children and for the purpose services of such teachers are being utilized who are Post-Graduate in the subject of Psychology.”

Decision:

After consideration of the contents of the counter statement filed by the respondents and after hearing the parties, it is observed that the PIO of the Public Authority has erred in taking appropriate action at the time of dealing with the RTI application which included collecting the information from the concerned quarters or transferring the application to the concerned department in the Government holding such information under section 6 (3). The School Education Department cannot take a stand that such information is not at all available in the Government or cannot be made available by the Government. This is because the State Government has been continuously making efforts for vacation of school buildings by the security forces at different times. This effort has also been monitored at the highest levels in the Government. Needless to say, the disposal of the RTI application by the PIO of the School Education Department has been lackadaisical which situation must be avoided in future.

Now, the PIO of the School Education Department is directed to collect the relevant information from the concerned quarters and provide the same to the appellant within a period of 30 days from the date of issue of this order. In terms of powers vested in the SIC under

section 16 (9), the Public Authority i.e. School Education Department is directed to facilitate the work of its PIO in collecting the requisite information from the concerned quarters.

The appellant is free to file a complaint under section 15 in case access to this information is denied to him or for non-compliance of this order.

*With the above directions the second 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/500/2017_____

Dated: . .2017

Copy to:

1. First Appellate Authority (FAA)/CAO, School Education Department, Civil Secretariat, Jammu for information and necessary action.
2. Public Information Officer (PIO)/Under Secretary to Government, School Education Department, Civil Secretariat, Jammu for information and necessary action.
3. Private Secretary to CIC for information of the HCIC.
4. Appellant/Sh. Khurram Parvez, R/o. House No. 1, Gupkar Road, Srinagar-190001 for information.
5. Office file.

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