



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/CO/SA/502/2017

Decision No. SIC/CO/SA/502/2017/**1027**

Final Order:

Appellant : Ms. Sunita Dubey, W/o Ganesh Dubey,
R/o VPO Jakh, Tehsil Vijaypur, Distt. Samba, Jammu.
Respondent : FAA/PIO, J&K, Police Head Quarters (PHQ).
Date of decision: : **28-11-2017**
Decision : Appeal disposed of.

Brief Facts:

Briefly the facts of this appeal are that the appellant while exercising her right to information filed RTI application dated 03-01-2017 with the Public Information Officer, (PIO) O/o The Director General of Police, J&K Srinagar (PHQ) seeking following information:

1. Kindly provide the copy of Order/Circular etc. issued by the PHQ for notifying the names/designations of Prescribed Authority in relation to other Public servants in terms GAD (Vigilance) Circular No-04 GAD(Vig) of 2015 dated 28-01-2015.
2. Kindly provide the copy of Order/Circular etc issued by the PHQ/Home Department J&K regarding constitution of Committee to examine the Property Statements in terms of Circular No.04 GAD(Vig) of 2015 dated 28-01-2015.
3. Kindly provide the name and designation of Head of Department of Railways Wing J&K in relation to lower subordinates from Constable to Inspector in Railways Wing who has to act as Prescribed Authority under Rule-5 for issuing of

Show Cause Notice explaining cause of non submission of Annual Property statement as notified vide Circular No-04 GAD (Vig) of 2015 dated 28-01-2015.

Proceedings before the State Information Commission(SIC):

The 2nd appeal came up for hearing before the SIC on 20-10-2017. However, none of the parties appeared before the SIC as such hearing was adjourned.

The appeal was again listed for hearing before the SIC on 28-11-2017. The hearing was attended by Sh. Gowhar Hussian Mir, Joint Director Prosecution/First Appellate Authority (FAA), J&K PHQ and Sh. Kulbir Singh, Public Information Officer (PIO) J&K PHQ, however, the appellant did not attend despite due notice.

During the hearing the PIO submitted that the appellant has been responded by him on 16-03-2017 and whatever information was available was provided to her. He further stated that in pursuance to the directions of the FAA dated 03-04-2017, the RTI application was transferred to Railway Hqrs J&K vide their office letter No. PHQ/RTI/06/2017/311-14 dated 07-04-2017.

On perusal of the averments made by the appellant in the 2nd appeal it reveals that the appellant is mainly aggrieved by the response of the PIO on point No-3 of her basic RTI application which according to her has not been properly replied by the PIO. She is also aggrieved by the transfer of her RTI application to other departments when according to her the PIO could have himself collected the information and provided to her. On enquiry from the PIO as to why he, instead of collecting information in terms of section 5 (4) of the Act, opted for section 6(3). However, the PIO could not give a satisfactory reply.

Respondents were heard at length and record was perused.

Decision:

Having heard the PIO and after going through the record it transpires that delay in response to the RTI application on the point No-03 is due to the method adopted by the PIO by transferring the same to other subordinate offices i.e Railway Hqrs instead of handling it himself to ensure its timely disposal. The PIO should have invoked section 5(4) of the J&K RTI Act, 2009 for getting assistance in collecting the requisite information for onward transmission of the same to the appellant. It is the PIO or the APIO to whom the application is submitted under section 6(1) of the Act and it is he who is responsible for ensuring that the information as sought is provided to the applicant within the stipulated time prescribed under the Act.

Section **5(4)** states as under:

"The Public Information Officer may seek assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties."

Section 5(4) strengthens the authority of the PIO and he is within his rights to seek assistance from his subordinates, colleagues and even superiors.

The RTI Act makes the PIO the pivot for implementation of the Act. Section 5(3) of the Act bestows responsibility upon the PIO to himself "deal" with the RTI application and render all reasonable assistance to the RTI applicant. The PIO in the present case is sitting in the PHQ which has control over all wings of the Police Department which should therefore, make use of section 5(4) easy for the PIO.

In view of the above, the PIO, PHQ is directed to collect the remaining information from the concerned subordinate offices of the Police Department and provide the same to the appellant within 15 days from receipt of this order.

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/CO/SA/502/2017

Dated: / /2017.

Copy to the:

- 6 First Appellate Authority (FAA) IGP (CIV) PHQ, J&K for information.
- 7 Public Information Officer (PIO), PHQ, Srinagar for information and compliance.
- 8 PS to CIC for information of HCIC.
- 9 Ms. Sunita Dubey, W/o Ganesh Dubey R/o VPO Jakh, Tehsil Vijaypur, Samba, Jammu
- 10 Guard file.

(Reeta kaul)
Deputy Registrar,
J&K State Information Commission.