



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/507/2017

Decision No. SIC/CO/SA/507/2017/**1028**

Final Order:

Appellant : Sh. Nisar Ahmad Wagay, S/o Ab. Rehman Wagay,
R/o Seer Hamdan, Tehsil Mattan District Anantnag.
Respondent : FAA/PIO, J&K, State Forest Research Institute.
Date of decision: : **04-12-2017**
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 06-02-2017 with the Public Information Officer, (PIO) J&K State Forest Research Institute seeking following information:

1. Furnishing of Xerox copies of the appointing authorities of the labours given at end recommended by which authorities for their engagement.
2. Xerox copies of recently filled up biometric forms of these labours.
3. Kindly mention the names and designation of the total number of staff members Range office (SFRI) Seer Hamdan.
4. Kindly provide cash voucher of August to December 2014, 2015 and 2016 of Range office (SFRI) Seer Anantnag.
5. Monthly account of August to December 2014,2015 and 2016 of Range office (SFRI) Seer Hamdan, Anantnag.

Please attest the photocopies of the documents requested.

Names:

- a) Basher Ahmad Bhat S/o Ab. Samad Bhat, R/o Sangam Bijbehara.
- b) Irshad Ahmad Ganai, S/o Mohammad Shaban Ganai R/o Seer Anantnag.
- c) Zahid Ahmad Bhat, S/o Mohammad Yousuf Bhat R/o Seer Anantnag.
- d) Bilal Ahmad Bhat S/o Ghulam Hassan Bhat R/o Seer Hamdan.
- e) Mushtaq Ahmad Khan S/o Mohammad Akbar Khan R/o Seer Anantnag.
- f) Nisar Ahmad Wagay S/o Abdul Rehman Wagay R/o Seer Anantnag.
- g) Mohammad Younis Bhat S/o Sadullah Bhat R/o Seer Anantnag.

Proceedings before the State Information Commission(SIC):

The 2nd appeal came up for hearing before the SIC on 27-11-2017. The hearing was attended by Sh. Harmohinder Singh, Conservator of Forests/First Appellate Authority (FAA) State Forest Research Institute Circle, Jammu and Sh. Mohammad Latief Bhat, Divisional Forest Officer/Public Information Officer (PIO), State Forest Research Institute, Srinagar. The appellant did not cause his appearance despite due notice.

During the hearing, the PIO stated that the requisite information has been provided to the appellant. He referred to counter reply filed before the SIC. On analysis of the same it was found that copy of the counter reply has not been endorsed to the appellant. Further as the appellant was not present to comment upon the ascertainment of the PIO, it did not reveal whether information has actually been delivered to the appellant or not. Further it was observed that reply of the PIO dated 17-03-2017 was inadequate and not specific.

After hearing the respondents the hearing was adjourned with a view to give a opportunity of being heard to the appellant who was not present.

The case was listed for final hearing before the SIC on 04-12-2017. The hearing was attended by Sh. Harmohinder Singh, Conservator of Forests/First Appellate Authority (FAA)

State Forest Research Institute Circle, Jammu and the appellant Sh. Nisar Ahmad Wagay, Sh. Mohammad Latief Bhat, Divisional Forest Officer/Public Information Officer (PIO), State Forest Research Institute, Srinagar was heard through video conferencing from Srinagar Office of the SIC.

The PIO informed that he has despatched the information to the appellant on 29-11-2017 via speed post. However, the appellant denied having received the information. On perusal it was noticed that the PIO vide his communication dated 29-11-2017 has sent the requisite information to the appellant and copy of which he has submitted in the SIC vide letter dated 13-10-2017. During the hearing the appellant identified the information which he is yet to receive from the PIO. FAA assured that the copy of the communication dated 13-10-2017 will be provided to the appellant by him today itself.

The parties were heard at length and record was perused.

Decision:

After due consideration this 2nd appeal is disposed of with the directions to the PIO to ensure that the information as sought for by the appellant through his basic RTI application dated 06-02-2017 is provided to him within 21 days from the date of receipt of this order. Any contravention of this direction shall invite initiation of penalty proceedings. It is observed by the SIC that the PIO has not acted with responsibility in the disposal of the RTI application considering the responsibility of the PIO as the main instrument under the J&K RTI Act, 2009. The J&K RTI Act, 2009 clearly envisages under section 5(3), 6(2) and 7(4) the obligation of the PIO in rendering assistance to the applicants who seek information under the Act. Further in the appeal proceedings before the SIC onus to prove that denial of information is justified is always on the PIO in terms of section 16(6) of the Act and this onus never shifts. The PIO is not expected

to merely shoot letters as an administrative officer but he is supposed to apply his mind viz-a-viz his responsibility and job chart under the Act and ensure that givable information as sought for by the appellant is provided to him/her within the specified time provided under section 7(1) of the Act. The PIO can use section 5(4) if assistance is required in collecting the requisite information and section 6(3) for transfer if the subject matter of the application pertains to another Public Authority.

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/507/2017

Dated: / /2017.

Copy to the:

- 1 First Appellate Authority (FAA) State Forest Institute, J&K for information.
- 2 Public Information Officer (PIO), O/o Divisional Forest Officer, Research Forest Division, Srinagar for information and compliance.
- 3 PS to CIC for information of HCIC.
- 4 Sh. Nisar Ahmad Wagay, S/o Abdul Rehman Wagay R/o Seer Hamdan, Tehsil Mattan, District Anantnag.
- 5 Guard file.

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