



Jammu and Kashmir State Information Commission
(Constituted under the Right to Information Act, 2009)
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File No. SIC/K/SA/74/2017
Decision No. SIC/K/SA/74/2017/ **78**

Final Order

Appellant : Sh. Basharat Rafiq
Respondent : First Appellate Authority (FAA)/
Public Information Officer, J&K State
Cable Car Corporation Ltd.
(J&K SCCC Ltd)
Date of Registration : 04.10.2017
Date of Decision : 20.12.2017

The brief facts of this appeal are that Shri Basharat Rafiq filed the 2nd appeal against the Managing Director/FAA, J&K State Cable Car Corporation Ltd (J&K SCCC Ltd) and PIO J&K SCCC Ltd. on 04.10.2017 alleging that his RTI application filed before the PIO J&K SCCC Ltd on 07.07.2017 has not been responded by the PIO within the stipulated time as prescribed under the J&K RTI Act, 2009. Against the deemed refusal of the PIO, the appellant filed the First Appeal before the FAA on 07.08.2017. The FAA without giving him an opportunity of being heard issued to him a letter bearing No.CCS/RITU/ 2017/

1593 dated 17.08.2017 along with insufficient information comprising of 14 pages. It is further stated that vide appellant's letter dated 23.08.2017, the FAA was informed by the appellant as to why the information provided to him was insufficient and incomplete. The appellant stated that complete information has not been provided to him till date and has requested the Commission to direct the concerned respondents to provide him the requisite information and take necessary legal action against the respondents.

As per the records of the 2nd appeal, the appellant vide RTI application filed before the PIO O/o J&K SCCC Ltd. on 07.07.2017 has sought information on eight points pertaining to the details of the staff working in the J&K SCCC Ltd. details of the maintenance conducted in Gulmarg Gondola Cable Car Project and annual environmental survey conducted by it. After filing of First Appeal before the FAA/MD, the APIO vide letter dated 17.08.2017 provided part of the information to the appellant. Not satisfied with the information provided to him, the appellant filed the instant 2nd appeal before the Commission on 04.10.2017.

The 2nd appeal came up for hearing for the first time on 16.11.2017. The appellant attended the hearing, however, the respondents were absent. On perusal of the reply to the RTI application placed on file, it appeared to be a hastily prepared reply in which the PIO and other officials of the J&K Cable Car Corporation have put together photocopies or number of documents and forwarded the same to the appellant. This hastily prepared reply was not para wise and also clearly appeared to be vague. Accordingly, the hearing on 16.11.2017 was adjourned with directions to the respondents to prepare a fresh para wise reply to the queries of the RTI application of the appellant and

provide the same to him within 21 days from the date of receipt of this order under intimation to the Commission.

This 2nd appeal was admitted in the SIC on 04.10.2017 and first sixty days expired on 03.12.2017 but owing to the need for conduct of more hearings for appropriate and final disposal of the appeal, the time period for disposal was extended by another 60 days upto a maximum of 120 days from the date of filing of appeal in terms of section 16(11) of the J&K RTI Act, 2009.

This 2nd appeal again came up for hearing today on 20.12.2017. Sh. Sanaullah Malik PIO/SO J&K State Cable Car Corporation Ltd (J&K SCCC Ltd), Mr. Tariq Ahmad Shafaiee APIO/Accountant J&K SCCC Ltd and appellant Shri Basharat Rafiq attended the hearing. The FAA did not attend. The PIO reported that in compliance of the orders of the Commission issued on 16.11.2016, he had compiled the information afresh para wise along with enclosures and the same stands provided to the appellant vide letter dated 06.12.2017. The appellant acknowledged to have received the information but stated that complete information in respect of Para-6 has not been provided to him and that copies of the orders issued for maintenance and for purchase of spare parts should also be provided to him in terms of request at Para-6 of the RTI application. The respondent stated that they have already provided full/complete information as per the RTI application, which although was voluminous, but nevertheless, the same has been provided to the appellant. They also agreed to provide the copies communications sent to the original equipment supplier regarding maintenance and supply of spare parts etc.

There is no doubt that the information sought was voluminous in nature and the Public Authority was within its rights to offer inspection instead of

providing copies of documents running into hundreds or thousands. This aspect has been dealt with by the Hon'ble Supreme Court judgment CBS V/s Aditya Bandopadhyay & Ors as under:-

“The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritizing ‘information furnishing’, at the cost of their normal and regular duties”

Notwithstanding the voluminous nature of information sought, the PIO of the Cable Car has done well to prepare the information after the last interim orders of the Commission and he has also agreed to provide the balance information, correspondence with the original contractors/manufacturers in France regarding procurement of spare parts, etc. which involves not more than 10-15 pages that is claimed by the appellant as part of information sought under Para-6 of the RTI application. The said balance information may be provided to the appellant within 15 days from the date of receipt of this order.

By way of an important observation, there is no record to suggest that the First Appeal filed by the appellant on 07.08.2017 has been disposed of by

the FAA/MD of the J&K SCCC Ltd. Whether MD, J&K SCCC Ltd., is the FAA, needs to be clarified by the MD J&K SCCC Ltd. The MD J&K SCCC Ltd. Should also designate a senior level officer as the PIO instead of a Section Officer (SO) in terms of the responsibilities stipulated/prescribed for the PIO under the J&K RTI Act, 2009 and also in terms of instructions/orders from the General Administration Department in this regard.

In terms of powers vested in the State Information Commission under Section 16(9), the Commissioner/Secretary, Tourism Department as Head of the Public Authority is directed to take necessary action for streamlining the RTI cell and function within the J&K SCCC Ltd. for quick and timely provision of information under the J&K TRI Act, 2009, as such arrangement has a bearing on the overall functioning of the corporation and safety aspects associated with the Gandola project.

With these observations and directions this appeal is disposed of. A copy of this order be also sent to *Commissioner/Secretary to the Government, Department of Tourism, Government of J&K, Civil Secretariat Jammu* for his perusal and reference.

Sd/-
(Khurshid A. Ganai) IAS Retd.
Chief Information Commissioner

Copy to:

1. Commissioner/Secretary to the Government, Department of Tourism, Govt. of J&K, Civil Secretariat Jammu
2. FAA/MD J&K State Cable Car Corporation Ltd. Srinagar/Jammu
3. PIO J&K State Cable Car Corporation Ltd. Srinagar

4. Appellant-Sh. Basharat Rafiq S/o Muhammad Rafiq R/o Athwajan,
Srinagar
5. Office file

(M. S Bhat)
Dy. Registrar
J&K State Information Commission