



**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](http://www.jksic.nic.in)

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File No. SIC/CO/SA/520/2017

Decision No. SIC/CO/SA/520/2017/**1034**

**Final Order:**

Appellant : Sh. Bilal Ahmad Kar, S/o Lt. Mohammad Maqbool Kar,  
R/o Noor Bagh, Baramulla.  
Respondent : General Manager Central/First Appellate Authority (FAA)  
Dy. General Manager/Public Information Officer (PIO)  
(Electrical), J&K Projects Construction Corporation (JKPCC)  
Date of decision: **13-12-2017**  
Decision : Appeal disposed of.

**Brief Facts:**

Briefly, the facts of this case are that the appellant Sh. Bilal Ahmad Kar S/o Late Mohammad Maqbool Kar R/o Noor Bagh, Baramulla, J&K while exercising his right to information filed an RTI application with the Public Information Officer (PIO) Deputy General Manager (Electrical), J&K Projects Construction Corporation Ltd. (JKPCC) Kashmir, Srinagar on 14-03-2017 seeking following information:

1. Copies of works programme for the year 2015-16 and 2016-17 duly approved by the competent authority for Kashmir Province.
2. Copies of total number of works under taken including name of the work and area of the location were executed during the year 2015-16 and 2016-17.
3. Copies of total funds received against the works during the year 2015-16 and 2016-17.
4. Copies of allotments against the works during the year 2015-16 and 2016-17.
5. Copies of M-Books against the works during the year 2015-16 and 2016-17.

6. Cheque numbers of the payments made in favour of the contractors/piece workers during the year 2015-16 and 2016-17 of Kashmir province.
7. Copies of monthly progress report (M.R.P) of works executed during the year 2015-16 and 2016-17 for Kashmir province

**Proceedings before the State Information Commission(SIC):**

The 2<sup>nd</sup> appeal came up for hearing before the SIC at Jammu on 13-12-2017. The hearing was attended by Sh. Faisal Hayat Shah, DGM/ Public Information Officer (PIO), Electric Unit JKPCC Ltd. and Sh. Shahnawaz Khan DGM Adm/PIO Hqrs. The appellant was heard through video conferencing from Srinagar Office of the SIC. During the hearing, the appellant submitted that he has not received the full information sought by him through his basic RTI application. He submitted that information on points 5 & 7 of his RTI application is yet to be provided to him though information at points 6 as been provided by the PIO. He further stated that he was asked to inspect the records however, the M-Books shown to him were not pertaining to the period about which he had sought the information which lead the appellant to filing of 2<sup>nd</sup> appeal with the SIC. He submitted that his grievance will be redressed if the order of 1<sup>st</sup> Appellate Authority (FAA) is implemented in letter and spirit. DGM/PIO Electrical Unit, JKPCC submitted that information whatever available was provided to the applicant. He further submitted that the appellant was offered inspection of the record and available information was shown to him. He stated that the M-Book pertaining to year 2015 – 2017 contain voluminous information as such the appellant was asked to deposit Rs 4800/- for getting the photocopies however, he did not turn up.

Both the parties were heard at length and record was also perused.

**Decision:**

After hearing the parties and on perusing the record it is directed that DGM (Electrical)/PIO, JKPCC will take necessary steps to compile and collect the remaining/balance information and provide the same to the appellant free of cost within a period of 21 days from the date of receipt of this order. By way of observation the head of the Public Authority, i.e Managing Director (MD) JKPCC is directed to ensure that RTI applications in the JKPCC are handled as per the J&K RTI ACT, 2009 and disposal is made within the stipulated time period prescribed under section 7(1) of the Act. In this case both PIO and FAA have exceeded the time limit which should be avoided in future and not violated.

Section 17 of the J&K RTI Act provides for imposition of penalty on the PIO for the following reasons:

- i. **Section 17(1)**:- Where the State Information Commission at the time of deciding any compliant, appeal or reference is of the opinion that the Public Information Officer has, without any reasonable cause refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of Section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or

*information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees :*

*Provided that the Public Information Officer shall be given a reasonable opportunity of being heard before any penalty is imposed on him :*

*Provided further that, the burden of proving that he acted reasonably and diligently shall be on the Public Information Officer.*

- ii. **Section 17 (2)***:- Where the State Information Commission at the time of deciding any complaint, appeal or reference is of the opinion that the Public Information Officer has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of Section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Public Information Officer under the service rules applicable to him.*

*In this case the PIO has provided the information first time through reply dated 22-06-2017 and additional information provided through another reference dated 17-08-2017. Reply is decidedly late by about two months in violation of section 7(1).*

*However, the grounds for imposition of penalty i.e delay seems have been caused due to factors beyond the control of the PIO who stated that since the information sought for was voluminous, collection from the concerned quarters took more time. This reason is considered and appears to be justified and that is why penalty in this case is not intended to be imposed.*

The Head of Public Authority/MD, JKPCC has the responsibility to ensure that all the officers of the JKPCC who have been assigned the responsibility of dealing with RTI application and 1<sup>st</sup> appeals are adequately trained and oriented about the provision of the RTI Act and are directed to implement the provisions of the Act in letter and spirit.

With the above directions/observation, this 2<sup>nd</sup> appeal is disposed of.

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/520/2017

Dated:        /        /2017.

Copy to the:

- 1 Managing Director, JKPCC, for information & compliance.
- 2 First Appellate Authority (FAA)/General Manager Central, JKPCC for information and compliance.
- 3 Public Information Officer (PIO)/Dy. General Manager (Electrical), JKPCC for information and compliance.
- 4 PS to CIC for information of HCIC.
- 5 Sh. Bilal Ahmad Kar, S/o Lt. Mohammad Maqbool Kar, R/o Noor Bagh, Baramulla-193101.
- 6 Guard file.

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