



**Jammu and Kashmir State Information Commission**

(Constituted under The Right to Information Act, 2009)

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File No. SIC/CO/SA/514/2017

Decision No. SIC/CO/SA/514/2017/**1038**

**Final Order:**

Appellant : Ms. Monika Verma, (Advocate),  
High Court of J&K, Jammu.  
Respondent : FAA/PIO, PWD(R&B), J&K Civil Secretariat.  
Date of decision : **20-12-2017**  
Decision : Appeal disposed of.

**Brief Facts:**

Briefly, the facts of this case are that the appellant Ms. Monika Verma, (Advocate), High Court of J&K, Jammu while exercising her right to information filed an RTI application with the Public Information Officer (PIO) PWD(R&B), J&K Civil Secretariat, Jammu on 27-03-2017 seeking following information:

- a) What is the current status of employees of Mughal Road Project? Whether they have been absorbed in R&B department or agencies/societies/autonomous bodies etc.
- b) Which department is paying them salaries and other benefits and under which account head.

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

The instant 2<sup>nd</sup> appeal came up for hearing on 20-12-2017. The hearing was attended by First Appellate Authority (FAA) and Public Information Officer (PIO) PWD(R&B) Department, J&K Civil Secretariat, Jammu and appellant Ms. Monika Verma. During the hearing the SIC enquired from the appellant whether she has got the requisite information sought vide her RTI application. In reply she informed that now the requisite information has been provided, however, she insisted that though the information has been provided to her but not within the stipulated time prescribed under the Act, so the penalty may be imposed upon the PIO for not adhering to the time limitation prescribed under the RTI Act.

The appellant was heard at length and record was also perused.

**Decision:**

*As per the record, the PIO, PWD(R&B) Department on receipt of RTI application dated 27-03-2017 from the appellant (the then RTI applicant) transferred it to Chief Engineer, Mughal Road Project, Jammu on the same day under section 6(3) of the J&K RTI Act, 2009.*

The said section reads as under:

- Where an application is made to a public authority requesting for an information,
  - a) Which is held by another public authority ; or
  - b) The subject matter of which is more closely connected with the functions of another public authority,

The public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer :

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.

The PIO, PWD(R&B) Department has therefore fulfilled his responsibility by transferring the RTI application well within the stipulated time period. Thereafter, it was for the Chief Engineer, Mughal Road Project, Jammu to deal with the RTI application and to ensure that the givable information as per available record is provided to the appellant in the time stipulated under the Act, which unfortunately he has not done. The said public authority slept over the matter. The appellant was not provided information even after filing of 1<sup>st</sup> appeal on 24-05-2017, which constrained the appellant to approach the SIC in 2<sup>nd</sup> appeal. There has been a delay of nearly 06 months on the part of the PIO O/o Chief Engineer, Mughal Road, Project Organization, Jammu in disposing of the RTI application which is a clear violation of section 7(1) of the J&K RTI Act, 2009 which stipulates disposal within 30 days after receipt of RTI application.

As per section 7(2) of the Act, if the PIO fails to give decision on request for information within the period specified under sub-section (1) the PIO shall be deemed to have refused the request. While the J&K RTI Act does empower the

residents of State to procure information from public authorities, it is sometimes intimidating for him/her, when the PIO or the public authority does not respond as per his/her duties, laid out in the Act. The Act has spelt out the role of the PIO in detail and it is important that he/she should be aware of it. The PIO should be sensitive to the requests received from the RTI applicants. The PIO plays a pivotal role in making the right of citizens to information a reality. The Act under section 17 makes him liable for penalty in case of default. The PIO must therefore, provide the requisite information expeditiously and not exceeding 30 days from the date of receipt of the RTI application.

In view of the facts and circumstances of this case, the SIC finds that the PIO O/o Chief Engineer Mughal Road Project, Jammu has erred in not disposing of the RTI application transferred to him under section 6(3) by the PIO, PWD, Civil Secretariat vide their no. PW(R&B)Adm/RTI/18/17 dated 27-03-2017 which makes him liable for initiation of penalty proceedings under section 17 of the Act. Therefore PIO O/o Chief Engineer, Mughal Road Project, Jammu is directed to explain as to why penalty may not be imposed on him under section 17 for not adhering to the provision of the Act. His reply shall reach within 15 days from the date of receipt of this order.

The 2<sup>nd</sup> appeal is disposed of subject to the above directions, **hearing in penalty proceedings however, shall continue separately.**

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.  
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Copy to the:

- 1 First Appellate Authority (FAA) PWD R&B, Civil Secretariat, Jammu for information.
- 2 Public Information Officer (PIO) PWD R&B, Civil Secretariat, Jammu for information.
- 3 Public Information Officer (PIO) O/o Chief Engineer, Mughal Road, Project, Jammu for information and compliance.
- 4 PS to CIC for information of HCIC.
- 5 Ms. Monika Verma, (Advocate), High Court of J&K, Jammu.
- 6 Guard file.

(Baldev Raj)  
Joint Registrar,  
J&K State Information Commission.