



Jammu and Kashmir State Information Commission
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www.jksic.nic.in

File No. SIC/CO/SA/499 /2017
Decision No. SIC/CO/SA/499/2017/1039

Final order

Appellant: : Syed Shabir Ahmad Shah, S/O Syed Mohd Abdullah Shah, R/O Dalpatain, Jammu

Respondents : First Appellate Authority (FAA)/ Public Information Officer (PIO) O/o DGP (Prisons) Department, J&K

Date of Registration : 25.08.2017

Date of Decision : 22-12-2017

Brief Facts:

The brief facts of the case are that Sh. Syed Shabir Ahmad Shah, S/O Syed Mohd Abdullah Shah, R/O Dalpatain, Jammu filed the 2nd appeal against the FAA/ and PIO O/o DGP (Prisons) Department, J&K on 25.08.2017. The appellant has alleged in the 2nd appeal that the PIO has failed to provide him the information sought vide RTI application dated 14.03.2017 within the stipulated period as laid down. Thereafter, the appellant filed First Appeal on 15.04.2017 but the 1st Appellate Authority also failed to provide him any information. The appellant filed the 2nd appeal on 25.08.2017 and submitted before the Commission to direct the PIO, O/o Superintendent Central Jail Kot Bhalwal, Jammu to provide him the requisite information as per his basic RTI application dated 14.03.2017. On scrutiny of documents of the 2nd appeal, the appeal was admitted and notice was issued to the respondents for filing of counter reply within 07 days vide SIC's communication dated 03.10.2017.

As per records on the file, the appellant had filed RTI application before the PIO O/o DGP (Prisons) Department, J&K on 14.03.2017 seeking point-wise information regarding certain employees (service particulars), medical staff and work and conduct of such staff, their stay in the present posting and other details about the functioning in the Kot Bhalwal jail such as medicines purchased as billing, diet given to the detenues, funds received from the detenues etc.

The PIO O/o DGP (Prisons) Department, J&K vide letter dated 26.05.2017 stated that the Superintendent Central jail Jammu, Kot Bhalwal was asked to provide the information without any further delay vide their communication No. Esstt/1128/695-96 dated 27.04.2017 following which the Spudt.Jail Kot Bhalwal vide his letter dated 3.5.2017 informed the appellant that the information is ready and requested the appellant to deposit the requisite fees so that the information can be provided to him (Appellant), followed by chain of communications dated 24.06.2017 and 09.10.2017 wherein the appellant was again asked to deposit an amount of Rs.170/- so that relevant information can be provided to him .

The appellant had filed First Appeal on 15.04.2017 before the First Appellate Authority (FAA) and as per the records, the FAA has not disposed of the First Appeal. However, FAA vide communication No.Esst/RTI/2016/9067 dated 10.10.2017 again informed the RTI applicant (now appellant) to kindly deposit requisite amount on account of stationary/Photostat charges so that the required information be provided to him.

The State Information Commission issued notice vide dated 03.10.2017 to the FAA and PIO to file counter reply to the aforementioned 2nd Appeal. Again vide notice dated 16.10.2017 respondents were directed to appear before the Commission on 24.10.2017 alongwith counterstatement and relevant documents.

Time period for disposal of this 2nd appeal was extended by another 60 days w.e.f 25.10.2017 in terms of powers vested in the SIC

under Section 16 (11) of the J&K RTI Act,2009 to ensure continuation of hearings for final and judicious disposal of the appeal.

Proceedings before the Commission

After hearing both the parties at length and perusal of record on file, this 2nd appeal came up for hearing on 24.10.2017 and vide interim order dated 24.10.2017 the respondents were directed as under:-

“The Commission observes that the PIO O/o DGP (Prison Department) has not used Section 6(3) of the J&K RTI Act,2009 correctly. Transfer of RTI application to the concerned Public Authority under Section 6(3) is to be invoked only when information sought is falling under the ambit of another Public Authority which is not the case here. The PIO should have simply invoked Section 5(4) seeking assistance of the Superintendent of Kot Bhalwal Jail and after collecting the information from the said Superintendent supplied the same to the appellant.

FAA also has failed to discharge his duties in not disposing of the 1st Appeal as stipulated under Section 16 of the J&K RTI Act,2009. FAA as an appellate forum sits in judgment on the order of the PIO to see whether the PIO has correctly disposed of the RTI application as prescribed under the Act. The FAA has to dispose of the appeal within the maximum period of 45 days. FAA can make reference to the SIC as well in terms of Section 16(3) of the Act against the PIO, if the PIO has failed to perform his/her duties as laid down in the Act.

FAA is therefore, advised to remain vigilant about his duties in the future

Taking overall view of the matter, SIC directs the PIO to provide the information to the appellant free of cost in terms of Section 7(6) of the Act, because the response of the PIO in seeking the Photostat charges has been late in terms of Section 7 of the Act. The needful be done within three weeks (21) days from the date of receipt of this order.”

Finally, the case came up for hearing on 22.12.2017 Shri Saleem Ahmed Beigh PIO, Staff Officer, DGP (Prisons) attended the hearing and was heard through video conferencing from SIC's Jammu office; however the appellant was absent. The PIO, Staff Officer for DGP (Prisons) stated during the hearing that in compliance with interim order dated 24.10.2017, the then PIO has intimated vide his communication dated 08.11.2017 that all the requisite information has been provided to the appellant vide his

communication No.CJJKB/ESSTT/3966-67 dated 31.10.2017 and sent through registered post on 01.11.2017. The PIO has also submitted a counterstatement which was taken on record.

Decision

Since the respondents have submitted in writing vide reference dated 20.12.2017 and through earlier communication dated 30.11.2017 that requisite information has been provided to the appellant Shri Syed Shabir Shah and since the appellant has not contradicted and not attended the last hearing on 22.12.2017, there seems to be nothing left for the SIC to decide further. However, the Public Authority/Prisons Department, J&K is directed to put in place an effective system for receipt of RTI applications and 1st Appeals in the Prisons Department and adequate training for the PIOs and the FAAs to ensure proper access to information to the RTI applicants and the 1st Appellants. These directions are issued in exercise of powers vested in the State Information Commission under Section 16(9)(a) of the J&K RTI Act,2009 and therefore, the said Public Authority/Prisons Department through its DGP are expected to take immediate follow up action in the light of the above directions. Putting in place a robust RTI mechanism in the Prisons Department will surely contribute to achieving better administration and redressal of grievances.

With these observations and directions, this 2nd appeal filed before the State Information Commission is disposed of.

The copy of Order be provided to the parties free of cost.

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

Copy to :-

1. Director General of Police, Prisons Department for information and necessary action.
2. First Appellate Authority(FAA)/Public Information Officer (PIO) O/o DGP (Prisons) Department, J&K-Jammu
3. Pvt.Secy. to CIC for information of the HCIC.
4. Sh. Syed Shabir Ahmad Shah,S/O Syed Mohd Abdullah Shah, R/O H.No.256, Dalpatain, Jammu
5. Office Order file.

(Sheikh Fayaz Ahmed)
Registrar
J&K State Information Commission