



Jammu and Kashmir State Information Commission

جموں اینڈ کشمیر اسٹیٹ انفارمیشن کمیشن

(Constituted under the Right to Information Act, 2009)

Wazarat Road, near DC Office Jammu, 0191-2520947, 2520937

Old Assembly Complex, Srinagar, 0194-2506660, 2506661(F)

www.jksic.nic.in

File No. SIC/K/Comp/08/2017

Decision No. SIC/K/ Comp/08/2017/**104**

Appellant: Mr. Mushtaq Ahmad Rather S/o Gh. Muhammad Rather R/o Fajipora, Khansahab Budgam

Respondents: 1. Public Information Officer (PIO)/Block Development Officer, Khansahab, Budgam

Date of Registration : 01-05-2017

Date of Decision : 20-02-2018

Brief Facts:

The brief facts of this case are that Mr. Mushtaq Ahmad Rather filed a complaint under section 15 of J&K RTI Act, 2009 against Block Development Officer, Khansaheb/PIO before the State Information Commission (SIC) on 01-05-2017 alleging therein that he filed an RTI application dated 21-02-2017 before BDO, Khansahib for providing some information. The PIO/BDO

Khansahib vide his letter No. BDO/KSB/RTI/3864 dated 01-03-2017 directed the complainant to produce the copy of ration card attested by the Gazetted Officer or self attested and also deposit Rs. 1,000/- as Photostat charges for 500 pages. However, instead of providing 500 pages, only 19 pages have been furnished to the applicant which too was in contradiction with the information uploaded on official website of the Rural Development Department. The complainant has filed this complaint and requested the Commission to impose penalty on the erring officer for demanding and collecting fee from the complainant who was exempted from such fee being a BPL person and also take disciplinary action against him for his neglect towards public duty. Against the inaction of the PIO, the complainant filed the instant complaint before this Commission.

The complaint came up for hearing on 22-11-2017. The hearing was attended by Mr. Muhammad Yaqub, S.O. Planning and Mr. Muhammad Arif Khan, CIC Operator representing PIO/Block Development Officer, Khansahab, Budgam. The complainant was not present. The following order was passed on the last date of hearing on 22-11-2017:-

“As per the complaint filed by the complainant, he had filed an RTI application on 21-02-2017 with PIO/Block Development Officer, Khansahab Budgam for providing information with respect to allotment of IAY quarters/houses, developmental works undertaken under MGNREGA, utilization of CDF funds, Job Cards issued and utilization of funds under CD Panchayat for the last five years w.e.f. 2011-12 to 2015-16 of Panchayat Halqa Shanipora. He had paid the fee of Rs. 10/- prescribed for the application. The complainant further states that the PIO vide his letter No. BDO/KSB/RTI/3864 dated 01-03-2017 asked him to produce a copy of the ration card and also to deposit Rs. 1,000/- as Photostat charges for 500 pages. The complainant also states that he is BPL category person and is therefore, exempted from payment of fee in terms of sub-section (5) of Section 7 of the J&K RTI Act. In spite of having deposited Rs. 1,000/- as the Photostat charges for Rs. 500/- pages, he was supplied with part of information by the PIO containing only 19 pages. He has urged the Commission to invoke penalty clause against the PIO for furnishing incomplete information and also for charging fee when he was exempted from payment of fee being a BPL category person. The PIO/BDO Khansahab was directed by the Commission to file reply/counter statement within seven days vide No. SIC/K/comp/08/2017/578-79 dated 21-06-2017. On his failure to do so, the Commission again vide No. SIC/K/comp/08/2017/1418-19 dated 27-09-2017 directed the PIO to file reply/counter statement as early as possible

with copy to the complainant. In spite of the notices, the PIO did not personally attend the hearing today on 22-11-2017. However, he was represented by Mr. Muhammad Yaqub, S.O. Planning and Mr. Muhammad Arif Khan, CIC Operator. No reply/counter has been filed by the PIO. By not filing reply/counter by the PIO, it can be safely presumed that he has nothing to say by way of rebuttal to the allegations leveled by the complainant. However, before invoking penalty clause in terms of section 17 of the J&K RTI Act, a final opportunity is given to the PIO to explain his position vis-à-vis the allegations leveled in the complaint. He shall specifically explain how fee of Rs. 1,000/- has been charged from the complainant, if he had mentioned in the application that he belongs to the BPL category.

With the above directions, the hearing in the complaint is adjourned. The registry is directed to issue notices to the PIO/BDO Khansahab for his personal presence before the Commission on the next date of hearing.”

The complaint was again listed for hearing today 20-02-2018. Mr. Gulzar Ahmad Rather, PIO/BDO Khansahib and Mr. Mushtaq Ahmad Rather, complainant attended the hearing. The PIO stated that the complainant has not only been provided with the information as sought by him vide his RTI application dated 21-02-2017 but the amount of Rs. 1,000/- deposited by him has been refunded to him. The complainant has acknowledged to have

received the desired information and also the amount deposited by him. He stated that he does not want to pursue the complaint anymore.

In the instant case, no purpose will be served to pursue with this complaint in this Commission as the PIO has reported that necessary action was taken on the RTI application and the amount of Rs. 1,000/- has also been refunded to the complainant. The complainant is also not interested in pursuing the complaint. However, the PIO is directed to remain cautious in future while dealing with RTI requests and shall bear in mind that persons who are below poverty line are exempted from payment of fee and photocopying charges in terms of proviso to sub-section (5) of Section 7 of the J&K RTI Act.

With the above observations, this complaint is disposed of as closed.

Sd/-
(Mohammad Ashraf Mir)
State Information Commissioner

Copy to:

1. Public Information Officer (PIO)/Block Development Officer, Khansahab, Budgam
2. Complainant- Mushtaq Ahmad Rather S/o Gh. Muhammad Rather R/o Fajipora, Khansahab Budgam

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