



Jammu and Kashmir State Information Commission
(Constituted under the Right to Information Act, 2009)
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Old Assembly Complex, Srinagar, 0194-2506660, 2506661
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File No. CO/SA/528/2017
Decision No. CO/SA/528/2017/**1057**

Final Order

Appellant : Sh. Ravinder Dhotra
R/O Smailpur Tehsil Baribrahmana Distt.Samba.

Respondents : First Appellate Authority (FAA)/
Public Information Officer, O/o J&K SIDCO

Date of Registration : 30.11.2017

Date of Decision : 01.02.2018

Brief Facts:

This 2nd appeal has arisen out of RTI application filed by Sh. Ravinder Dhotra R/O Smailpur Tehsil Baribrahmana Distt.Samba before the PIO, J&K SIDCO on 01.09.2017 seeking following information:-

1. Kindly furnish in details the appointment letter issued in favour of Sh.J.S.Dua presently posted at MD at the time of joining his service.
2. Kindly furnish in details the service book of Sh.J.S.Dua presently posted at M.D J&K SIDCO.
3. Kindly furnish in details all the promotion letters issued in favour Sh.J.S.Dua presently posted at MD J&K SIDCO from the time of joining of service.
4. Kindly furnish in details the copy of the order of approval from Board of Directors in favour of Sh.J.S.Dua presently at MD J&K SIDCO under which he has been appointed as MD J&K SIDCO.

The PIO has provided the copy of the appointment order of MD, SIDCO issued vide Govt. Order No.122-IND of 2017 dated 31.05.2017 available in the office/ records on 13.10.2017. However, for the remaining information the PIO has stated that the same is not available in the

records. The FAA has disposed of the 1st Appeal filed on 25.10.2017 through a cryptic order dated 25.10.2017 stating that ' the information as sought vide above referred to letter has already been furnished by Public Information Officer under letter No. SIDCO/ROJ/RTI/2017/07/631-4 dated 13.10.2017'.

Proceedings before the State Information Commission

The 2nd appeal filed on 30.11.2017 came up for hearing today on 01.02.2018. First Sixty days expired on 30.01.2018 and therefore, the time limit for disposal is also extended under Section 16(11) of the J&K RTI Act,2009 by another 60 days w.e.f 30.1.2018.

Both parties were heard. The PIO was asked why she did not transfer the RTI application under Section 6(3) to the concerned Public Authority who has the requisitioned information, if J&K SIDCO did not have the same. Neither she nor the FAA could give a satisfactory reply to this. The appellant stated that the PIO and the FAA have deliberately denied the information sought through the RTI.

In the counter statement dated 06.01.2018 filed by the PIO through the Standing Counsel Shri Hunar Gupta on 08.01.2018, the PIO has stated that she has provided the copy of Govt. Order dated 31.05.2017 under which Shri J.S.Dua has been posted as MD, SIDCO. Para 04 of the counter reply reads as under:

' That no information with respect to the Service Book or the promotion letters issued in favour of Sh.Jasvinder Singh, presently posted as MD, J&K SIDCO vide Government order No.122-IND of 2017 dated 31.05.2017, is available in records at the office of the answering respondent as is evident from the Government order No.122-IND of 2017 dated 31.05.2017 itself that Sh. Jasvinder Singh, MD J&K SIDCO stood transferred from other Corporation as such the same information with respect to the same was not available with the records maintained at the office of the answering respondent. That whatever information which was available in record of the office of the answering respondent was provided to the applicant. (That the copy of the letter dated 13.10.2017 bearing Ref. No SIDCO/ROJ/RTI/

2017/07/631 is annexed herewith and its marked as Annexure –A and that the copy of the Government order No.122-IND of 2017 dated 31.05.2017 is annexed herewith and is marked as Annexure-B.'

Para 5 of the counter reply reads as under:-

' That applicant in his application has sought information from the period 1975 to 01.09.2017 however as replied Sh.Jasvinder Singh was posted as MD,J&K SIDCO vide No.122-IND of 2017 dated 31.05.2017 only and the copy of the transfer order was the only order available with the answering respondent as per the records and the same was provided to the applicant.'

It is however pertinent to point out here that although the PIO has provided part information from the available records, she has erred in not invoking Section 6(3) of the J&K RTI Act for transferring the RTI application to J&K SICOP for that part of information as pertains to them. The FAA, has also erred in his disposal of 1st appeal on the same grounds.

Decision.

The stand of the PIO that she has provided the information available in the office/ SIDCO and could not provide information that was not available is acceptable as this position has been upheld by the Supreme Court also in its Judgment CBSE & Anr. Vs. Aditya Bandopadhyay & Ors.

The relevant para reads as under:-

At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such nonavailable information and then furnish it to an applicant.'

After due consideration and perusal of record, it is directed that PIO, J&K SIDCO shall consider what more information, if any, can be provided from the available record of SIDCO and also transfer the RTI application to the J&K SICOP, the parent organization of Sh.J.S.Dua, for providing the remaining information to the appellant from the available records except service book in terms of section 8(1)(i) pertaining to personal information. So far as disclosure of information on service book is concerned the Commission observes that the same falls within the connotation of word 'personal information', the disclosure of which is exempted by Section 8(1)(i) of the J&K RTI Act,2009. This issue has been settled by the Hon'ble Supreme Court in number of cases. In some of the prominent cases like Girish R. Deshpande Vs. CIC & Ors (2013), R.K.Jain Vs UOI(2013) and recently in Canara Bank represented by its Dy. General Manager Vs. C.S Shyam & Anr. (2017) that information pertaining to personal details of an employee cannot be disclosed in view of Section 8(1)(i) of the Act. Therefore, the information on point No.02 of the basic RTI application need not be disclosed by the PIO and also on the ground that applicant has not shown involvement of any public interest in seeking such information.

This 2nd appeal filed before the State Information Commission is disposed of subject to the above directions.

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

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

Copy to the :-

- 1. First Appellate Authority (FAA) O/o J&K SIDCO for information and n/a.**
- 2. Public Information Officer (PIO) O/o J&K SIDCO for information and n/a.**
- 3. Pvt.Secy. to HCIC for information of the HCIC.**
- 4. Sh. Ravinder Dhotra,R/O Smailpur Tehsil Baribrahmana Distt.Samba.**
- 5. Office Order file.**

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