



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

File No. SIC/J/A/161/2017

Decision No. SIC/J/A/161/2017/**179**

Final Order:

Appellant : Sh. Ahmad Din Lohar, S/o Lt. Haji Ghulam
Rasool,
R/o Tehsil Gool, District Ramban.

Respondent : FAA/PIO, Rural Development Department.

Date of Registration : 27-11-2017.

Date of decision : **15-03-2018.**

Decision : Appeal disposed of.

Brief Facts:

Briefly, the facts of this case are that the appellant Sh. Ahmad Din Lohar, while exercising his right to information filed an RTI application with the Public Information Officer (PIO)/Block Development Officer, Gool Mr. Bahar Ahmad Wani seeking information with regard to population list along with their name of family members in respect of Panchayat Constituency Gool-B and Gool-Parthmulla.

The PIO had not provide requisite information to the applicant within stipulated time and he filed 1st appeal with First Appellate Authority (FAA), Director, Rural Development Department (RDD), Jammu on 10-07-2017. The FAA/Director, RDD, Jammu disposed of the 1st appeal vide order dated 19-07-2017, directing the PIO to furnish the information directly to the applicant

under intimation to the FAA. Despite clear directions from the FAA, the PIO did not provide information to the applicant forcing him to file 2nd appeal before the State Information Commission (SIC) on 25-10-2017.

Proceedings before the State Information Commission(SIC):

The instant 2nd appeal was listed for hearing before the State Information Commission today on 10-01-2018. The appellant was present but the respondents did not attend despite due notice. The appeal was adjourned with the directions to the PIO to explain as to why they have not provided the information to the appellant within the prescribed period and a direction to the FAA why he has not discharged the statutory duty of disposing the appeal inspite of directions from Directorate of RDD, Jammu. The PIO/FAA were accordingly, also directed to present themselves before the SIC in person on next date of hearing and also file rejoinder to the 2nd appeal.

The appeal again came up for hearing before the SIC on 15-03-2018. The hearing was attended by Mr. Rajat Sharma (VLW) on behalf of ACD, Ramban and the appellant. The PIO did not attend.

Decision:

Vide Interim Order dated 10-01-2018, the State Information Commission (SIC) had provided the PIO/BDO, Gool an opportunity to explain as to why he has failed to provide the information to the appellant within the period specified in terms sub-section (1) of section 7 which amounts to denial of information in terms section (2) of section 7 of the J&K RTI Act. The PIO was also directed to provide the information to the appellant as sought by him and also file rejoinder to 2nd appeal by or before the next date of hearing. The FAA

was also directed to explain as to why he has failed to discharge his statutory duty of disposing of 1st appeal inspite of directions from the Directorate of Rural Development Department, Jammu. The PIO has not only failed to provide the information to the appellant but has also failed to appear before the Commission. He has also not filed any rejoinder to 2nd appeal. This attitude of the PIO exhibits disdain and disregard on the part of the PIO towards the J&K RTI Act and the SIC. Such a behavior is not only unacceptable but also unbecoming of a Government functionary and dereliction of statutory duties and responsibilities cast on him under the Act. Persistent denial of information by the PIO and scant regard for the directions issued by the Commission makes the PIO liable for penalty not only under sub-section (1) of section 17 but also under sub-section (2) of section 17 of the J&K RTI Act. Since an opportunity of being heard and also of explaining the reasons which prevented him to provide information to the appellant within specified time was given to the PIO and he has not availed of such an opportunity. In such situation, the averments of the appeal filed by the appellant alleging denial of information by the PIO go un-rebutted and unrefuted. As such, the PIO has become liable to penalties under section 17 of the J&K RTI Act, 2009.

The representative of the FAA submitted that the 1st appeal was filed by the appellant before Directorate of Rural Development Department (RDD), Jammu on 10-07-2017. The same was transferred by RDD to the FAA/ACD, Ramban on 19-09-2017. The FAA thereafter disposed of the 1st appeal by its order dated 02-11-2017 by directing the PIO/BDO to provide the desired information to the appellant free of cost within 7 days. Therefore, the FAA has discharged its statutory duty of disposing of the appeal within the prescribed period. After perusing of the record and the submission made by the

representative of the FAA, the Commission accepts the explanation given by the FAA.

The representative of the FAA has informed that Mr. Bahar Ahmad Wani, BDO, Gool has been recently transferred and now Mr. Rajinder Singh has been posted as BDO Gool.

After hearing the appellant and the representative of the FAA and also after perusing the record made available, this appeal is disposed of with the following directions:

- 1. The present PIO/BDO, Gool, Mr. Rajinder Singh is directed to provide the information as sought by the appellant within a period of 15 days from the date of receipt of this order. In case the PIO fails to provide the information to the appellant within the above referred period, the appellant have liberty to file a complaint against the PIO under section 15 of the J&K RTI Act, 2009;**
- 2. The Registry is directed to initiate proceedings against the then PIO/BDO, Gool, Mr. Bahar Ahmad Wani for imposition of penalties under section 17 of the Act for denying information to the appellant within specified time and also for persistently refusing such information even after the directions from FAA and the SIC;**
- 3. The Registry is also directed to send a copy of this order to the Director, Rural Development Department, Jammu being the Controlling Authority of the PIO for his information and necessary action.**

-sd-

(Mohammad Ashraf Mir),
State Information Commissioner,
J&K State Information Commission.
/imi/

No. SIC/J/A/161/2017

Dated: / /2018.

Copy to the:

- 7 First Appellate Authority (FAA) Director Rural Development Department, Jammu for information.
- 8 Public Information Officer (PIO), Block Development Officer, Gool (Mr. Rajinder Singh) for information and compliance.
- 9 PS to SIC for information of HSIC.
- 10 Sh. Ahmad Din Lohar,, S/o Sh. Lt. Haji Ghulam Rasool, R/o Tehsil Gool, District Ramban.
- 11 Guard file.

(Sheikh Fayaz Ahamd)
Registrar,
J&K State Information Commission.