



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/K/SA/94/2017

Decision No. SIC/K/SA/94/2017/ **114**

Final Order
(2nd Appeal)

- Appellant : Sh. Meer Asif Mushtaq (Advocate),
S/o. Late Mushtaq Ahmad Mir,
R/o. Ward No. 06, Nishat Park,
Tehsil & District Bandipora, Kashmir.
- Respondents : First Appellate Authority (FAA)/ Administrator,
Municipal Committee, Bandipora and
Public Information Officer/Executive Officer,
Municipal Committee, Bandipora.
- Date of Registration : 28.11.2017
- Date of Decision : 22.03.2018

Brief Facts:

The appellant Sh. Meer Asif Mushtaq (Advocate), S/o. Late Mushtaq Ahmad Mir, R/o. Ward No. 06, Nishat Park, Tehsil & District Bandipora, Kashmir while exercising his right to information filed an RTI application dated: 20.06.2017 under section 6 of the J&K Right to Information Act, 2009 (hereinafter Act for short) with the PIO/Executive Officer, Municipal Committee, Bandipora seeking information regarding funds sanctioned, certified cash vouchers, names of work alongwith names of contractors,

advertisement notifications of works published in daily news papers with date as well as name of newspapers and other related information regarding Municipal Committee, Bandipora w.e.f. January 2015 to 15th June, 2017.

Aggrieved by the non-response of the PIO within the stipulated time, the appellant filed First Appeal with the FAA/Administrator, Municipal Committee, Bandipora on 21.07.2017. The FAA too did not provide him the requisite information. At last, the appellant approached the State Information Commission (SIC) by filing 2nd appeal which was admitted on 28.11.2017 after completion of deficiencies.

This 2nd appeal was admitted in the SIC on 28.11.2017 and first sixty days expired on 27.01.2018 but owing to the need for conduct of more hearings for appropriate and final disposal of the appeal, the time period for disposal was extended by another 60 days upto a maximum of 120 days from the date of filing of appeal in terms of section 16(11) of the J&K RTI Act, 2009.

The appeal was first heard on 06.02.2018 at Srinagar. The respondents were absent. Counterstatement was also not filed. Accordingly, the following directions were issued:

- 1. PIO/Executive Officer, Municipal Committee, Bandipora is directed to explain as to why penalty in terms of section 17 of the Act may not be imposed on him for refusal to provide the information. The FAA is directed to explain the circumstances under which he has failed to respond to the appeal reportedly submitted by the appellant on 21.07.2017 and also to explain the reasons for not remaining present for hearing before the**

Commission on 06.02.2018 despite a notice sent to him vide No. SIC/K/SA/94/2017/284-86 dated: 24.01.2018.

2. PIO is directed to offer inspection to the appellant of the relevant records, documents and connected information sought by him through his RTI application dated: 20.06.2017

Proceedings on 22.03.2018 through Video Conferencing:

In continuation with the proceedings of 15.03.2018 in which presence of the appellant was sought on the next date of hearing, he was again absent today on 22.03.2018 despite advance notice. The PIO/Sh. Wali Mohammad Wani, Executive Officer, Municipal Committee, Bandipora attended the hearing through Video Conferencing from Srinagar office of the Commission.

The FAA/Administrator, Municipal Committee, Bandipora again did not attend as he is reportedly holding the charge of Deputy Commissioner, Bandipora after the recent transfer of Deputy Commissioner, Bandipora.

The PIO had submitted in the last hearing as well as today that requisite information has been given to the appellant which the appellant had confirmed on phone on 15.03.2018 but had stated that he is yet to go through it in view of recent death of his father etc. He sought more time and accordingly the hearing was adjourned on his request. Although the appellant assured to be present on the next date of hearing to give his feedback and comments on the information provided by the PIO, he did not attend the hearing on scheduled time. He then attended Commission's office at Srinagar after the conclusion of hearing and submitted a written communication dated: 22.03.2018 interalia stating that

he is satisfied with the information which he has received from the PIO/Executive Officer, Bandipora.

As regards penalty proceedings for refusal to provide information in time, the PIO vide his No. MC/BPR/Gen/3213 dated: 19.01.2018 and No. MC/BPR/3923 dated: 06.03.2018 has given reasons for not being able to dispose of the RTI application in time. The reasons given are more or less acceptable.

The FAA/ADDC, Bandipora has vide his No. DDC/AP/2018/464 dated: 14.03.2018 given reasons for his non-appearance and also non-disposal of the First Appeal within time which are, however, not very convincing.

Decision:

In view of the above stated facts and perusal of record placed on file, this appeal is now disposed of with no further directions to the PIO, as the requisite information has been provided to the appellant and that the appellant has reported complete satisfaction with the same as per his written communication dated: 22.03.2018. Both PIO and the FAA are however directed to remain careful in future while dealing with the RTI applications/First Appeals respectively and follow the provisions of J&K RTI Act, 2009 in letter and spirit. A copy of this order be also sent to Director, Local Bodies, Kashmir and DC, Bandipora for information.

Copy of this decision be given free of cost to the parties.

Sd/-
(Khurshid A. Ganai)
Chief Information Commissioner
J&K State Information Commission

(P.A. Ajay)

Copy to the:

1. First Appellate Authority (FAA)/ Administrator, Municipal Committee, Bandipora
2. Public Information Officer/Executive Officer, Municipal Committee, Bandipora
3. Appellant-Sh. Meer Asif Mushtaq (Advocate), S/o. Late Mushtaq Ahmad Mir, R/o. Ward No. 06, Nishat Park, Tehsil & District Bandipora, Kashmir.

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