



Jammu and Kashmir State Information Commission

شہن یشن کمیٹ انفارمیر اسٹیٹسٹ نڈ کشمیر جموں ا
(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.CO.SA.560-2018
Decision No.SIC.CO.SA.560-2018/1073

Final Order

Appellant : 01. Adeela Shah.
(2nd Appeal) : 02. Naveed Bakhtiyar

Respondents : FAA/PIO Home Deptt.

Date of Registration : 29-12-2017.

Date of Decision : 21-02-2018.

Facts:-

Briefly the facts of this case are that the appellants approached Public Information Officer J & K Home Department Civil Secretariat Srinagar with an RTI application dated 27-07-2017, seeking the following information:

01. A clear photocopy of the latest version of the Rules framed under the J&K Public Safety Act, 1978 (J&K-PSA);
- 02.A clear photocopy of the Standard Operating Procedures (SOPs) that provide guidance to the District Magistrate for the purpose of making decision regarding the detention of any person under the J&K-PSA, based on the police reports/dossiers;

03. The total number of persons detained under J&K-PSA from 04, March, 2016, till date and the complete list of detainees indicating the name, age, parentage, postal address and grounds for detention and exact place of lodgement of each detainee;
04. A clear photocopy of any official documents that contains the procedures for ascertaining the age of a detainee under J&K-PSA when such person is suspected to be minor;
05. Inspection of all detention orders issued under J&K-PSA and the related policy reports and dossiers related to such detainees as on the date of RTI application.
06. A clear photocopy of official document that contains the details of the Chairman and the members of the Advisory Board of J&K-PSA.

The PIO disposed of the RTI application received in his office on 07-08-2017 vide order dated 05-09-2017 interalia informing the appellant that the Indian Postal Order (IPO) attached along with his RTI Application is not as per Rule 3 of the J&K RTI Rules, 2012 as it is payable to PIO instead of Accounts officer as per the same Rule and therefore information sought for can't be provided to him. The PIO however gave an option to the appellant of filing RTI application afresh.

Aggrieved by the response of PIO, the appellants filed first appeal before the First Appellate Authority (FAA) J&K Home Department on 30-08-2017. The FAA vide his communication dated 13-09-2017 informed the appellants to appear before him on 19-09-2017 for hearing of first appeal. Thereafter the first appeal was disposed of by the FAA vide order dated 20-09-2017 i.e. well within the stipulated time period provided under section 16(7) of the J&K RTI Act 2009. The FAA after due consideration of the matter, upheld the order of the PIO. The appellants however at last filed second appeal with the commission which was finally admitted on 29-12-2017.

Proceedings before the Commission:-

The 2nd appeal come up for hearing before the commission on 21-02-2018. The hearing was attended by Sh. Muzafar Ahmad Wani, Special Secretary cum First Appellate Authority & Sh. Syed Sarfraz Rizvi senior law officer cum

Public Information Officer J&K, Home Department, Civil Secretariat, Jammu.
The appellants did not attend despite due notice.

The respondents have submitted a counter statement to the second appeal interalia stating that PIO has disposed of the RTI application well within the stipulated time period under the Act and Rules. That his first appeal was disposed of and that there is no delay in the disposal of his RTI application by the PIO and that the PIO had also allowed the applicants to file a fresh application along with the requisite fee in accordance with rules. That even during the hearing of first appeal, appellants were given another chance to make a fresh application along with requisite fee so that the givable information can be provided to them.

That the response of the PIO is in accordance with the Commissions earlier decision No. SIC/CO/SA/454/2017/967 dated 19-06-2017.

The respondents were heard and record was also perused.

Decision:-

From the above it is clear, that the disposal of the PIO & FAA is unexceptionable because they have quoted the rules that govern the procedure for filing RTI application and therefore the appellants were bound to make the correction in the postal order annexed along with their RTI application as informed by the PIO and FAA and since they have not taken the corrective measures at that stage and instead have come in 2nd appeal, therefore there is no justification for issuing orders to the respondents for provision of information as RTI application itself was not filed in terms of the relevant rules.

The order of the FAA does not need any interference and therefore this 2nd appeal is disposed of as closed without any further directions to the respondents.

Copy of the order be provided free of cost to the parties.

Sd/-

(Khurshid A. Ganai)

**Chief Information Commissioner
J&K State Information Commission**

File No: SIC.CO.SA.560-2018_____

Dated: - -2018

Copy to:

01. First Appellate Authority (FAA), O/O Home Department, Civil Secretariat, J&K, Jammu for information.
02. Public Information Officer(PIO), O/O Home Department, Civil Secretariat, J&K, Jammu for information.
03. Private Secretary to CIC for information of the HCIC
04. Appellant Adeela Shah, Naveed Bakhtiyar R/o Shah E Jeelan Colony, House No-1, Budshah Nagar Natipora Srinagar, Jammu & Kashmir-190015 for information.
05. Office File.

(Sheikh Fayaz Ahmad)

Registrar

J&K State Information Commission

(Zahoor A. Bhat)