



Jammu and Kashmir State Information Commission

شنیشن کمیٹ انفارمیر اسٹیٹنڈ 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/593/2018

Decision No. SIC/CO/SA/593/2018/1088

Final Order

(2nd Appeal)

Appellant : Sh. Vinod Kumar Vaid.

Respondents : First Appellate Authority (FAA)/
Public Information Officer (PIO),
Health and Medical Education Department,
J&K Civil Secretariat.

Date of Registration : 05.03.2018

Date of Decision : 05.04.2018

Brief Facts:

The appellant Sh. Vinod Kumar Vaid, S/o. Sh. Kesri Dass Vaid, R/o. H.No. 90, Sector 2, Upper Roop Nagar, JDA Housing Colony, Jammu-180013 while exercising his right to information filed RTI application dated: 14.09.2017 with the PIO, Health and Medical Education Department, J&K Civil Secretariat seeking information on 04 points as under:

- a) *Eligibility criteria/Age for the senior citizens for health care benefits in the Government Hospitals/Medical Colleges/Super specialty hospital in J&K.*
- b) *Details of health care benefits being provided in all Government Hospitals to the Sr. Citizens under National Programme or any other programme/scheme for Health care of the Elderly (NPHCE).*
- c) *OPD card fee and other tests fee being charged from the Sr. Citizens by the Government Hospitals/Medical Colleges in J&K. Is there any unanimity or different rates/fees are being charged by the Hospital in J&K.*
- d) *Is there any preferential treatment/respect being given to the Sr. citizens by the Doctors/PMS or they are made to suffer/stand in long queue at the time of getting check up/consultation in the Hospitals as an ordinary person.*

Aggrieved by the response of the PIO, the applicant (now appellant) filed First Appeal with the FAA, Health and Medical Education Department, J&K Civil Secretariat on 08.11.2017 which was disposed of by the FAA vide his order dated: 12.12.2017.

Aggrieved by the disposal of the First Appeal by the FAA and the non-provision of requisite information by the concerned PIO, the appellant approached the State Information Commission (SIC) by filing 2nd Appeal which was admitted on 05.03.2018.

Proceedings:

The instant 2nd Appeal came up for hearing before the State Information Commission (SIC) on 05.04.2018. The hearing was attended

by the PIO/Sh. Nissar Ahmad Wani, Under Secretary, Health and Medical Education Department, J&K Civil Secretariat and the appellant.

Both the parties were heard at length and record perused.

Decision:

From the perusal of the RTI application and record on the file i.e. PIO's reply and also the order of the FAA, it transpires that the appellant (the then RTI applicant) has sought general type of information regarding facilities and benefits available to senior citizens from the State Health Department and in the hospitals of the State. For reasons best known to the then PIO of the Health Department (Dr. Murtaza Rashid, KAS) he has transferred the RTI application under section 6(3) to the PIOs of Government Medical College, Jammu and Director, Health Services, Jammu which is prima facie an incorrect disposal of the RTI application by him as the information sought for pertains to the whole State and should lie with the State level office i.e. the Administrative Department of Health and Medical Education. The PIO should have collected and collated the information from various sections in the Administrative Department and if necessary from the various Health and Medical Education Department authorities in the field and then provided a comprehensive parawise reply to the RTI applicant. Unfortunately this has not been done. On the contrary, he has transferred his responsibility through the incorrect use of

section 6(3) without due application of mind and in the process denied the information to the RTI applicant.

The FAA/Sh. Naseer Ahmad Wani, KAS also seems to have not disposed of the First Appeal without proper application and due diligence and has issued a cryptic direction to the PIO of the Health and Medical Education Department *'to forward a copy of the application received from the appellant to both the PIOs.'* This direction is apparently confusing and unhelpful.

The present PIO/Sh. Nissar Ahmad Wani, Under Secretary, Health and Medical Education Department has now agreed to reconsider the RTI application in the light of the observations made during the hearing of this second appeal today and also accepted that the application should have been disposed of at the level of the Administrative Department after collection of relevant information, if any, from the field agencies.

It is accordingly directed that the PIO of the Health and Medical Education Department shall dispose of the RTI application of the appellant within a period of 30 days from the date of receipt of this order and provide the information sought for by the appellant through his original RTI application.

The then PIO/Dr. Murtaza Rashid, KAS has violated section 7(1) of the J&K RTI Act and has failed to furnish the information

to the appellant/the then RTI applicant without any reasonable cause and is, therefore liable for imposition of penalty under section 17 (1). Accordingly, he is called upon to explain why maximum penalty may not be imposed on him in terms of section 17 (1). His reply must reach the Commission within a period of 15 days from the date of receipt of this order.

It is pertinent to state here that the information sought for by the RTI applicant is of vital importance to the senior citizens of the State and, therefore, the PIO must put in the requisite effort to collect the relevant information before providing it to the appellant (the then RTI applicant). He must also bring to the notice of the Principal Secretary/Administrative Secretary, Health and Medical Education Department the contents of the RTI application and the observations made in the disposal of the second appeal by the State Information Commission.

Further, it was also observed that the information sought by the appellant falls under information to be disclosed on suo-moto basis as provided under section 4 of the J&K RTI Act, 2009. Therefore, in terms of powers vested in the J&K State Information Commission under section 16 (9) (a) of the J&K RTI Act, 2009 the Head of the Public Authority/Administrative Secretary, Health and Medical Education Department is directed to take necessary action for full implementation of section 4 of the RTI Act in the

**Health and Medical Education Department and Public Authorities
under its jurisdiction.**

With the above observations/directions, the second appeal is disposed of. Penalty proceedings under section 17 (1) of the J&K RTI Act, 2009 against the then PIO, Health and Medical Education Department Dr. Murtaza Rashid, KAS will continue. Registry to fix the hearing in the penalty proceedings on the next available date.

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)

No: SIC/CO/SA/593/2018_____

Dated:

Copy to:

1. Principal Secretary, Health and Medical Education Department, J&K Civil Secretariat for information and necessary action.
2. First Appellate Authority (FAA), Health and Medical Education Department, J&K Civil Secretariat for information.
3. Dr. Murtaza Rashid, KAS (the then PIO), Health and Medical Education Department, J&K Civil Secretariat, Jammu for information and necessary action.
4. Public Information Officer (PIO)/Health and Medical Education Department, J&K Civil Secretariat, Jammu for information and necessary action.
5. Private Secretary to CIC for information of the HCIC.
6. Appellant/Sh. Vinod Kumar Vaid, S/o. Sh. Kesri Dass Vaid, R/o. H.No. 90, Sector 2, Upper Roop Nagar, JDA Housing Colony, Jammu-180013 for information.
7. Office file.

(Sheikh Fayaz Ahmed)

Registrar

J&K State Information Commission