



Jammu and Kashmir State Information Commission

شنیشن کمیٹی انفارمیری اسٹیٹسٹونڈ کشمیری 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.567-2018

Decision No. SIC.CO.SA.567-2018/1102

Final Order

- Appellant** : **Dr. Sheikh Gulam Rasool**
- Respondents** : **First Appellant Authority (FAA) /
Public Information Officer (PIO), J&K
Women's Commission.**
- Date of Registration** : **29-01-2018.**
- Date of Decision** : **12-04-2018.**

Brief Facts:-

This 2nd appeal has been filed in the State Information Commission (SIC) by Dr. Sheikh Gulam Rasool C/O J&K RTI Movement, Srinagar on 29-01-2018 on the grounds that on 13-09-2017, he had dispatched by registered post an RTI application to the PIO, J&K Women's Commission seeking following information:

1. *Total cases registered with Woman Rights Commission. Along with case title, date of registration, Name of the complainant, Name of the Respondent, year wise breakup, (From last 10 years)*
2. *Details of the case, in which compensation has been awarded from the Government.*
3. *Provide the copies of the complaints submitted in WRC till date in digital form (CD/Pen drive).
Provide the case wise details and year wise break up along with title, name of the case (for the last 10 years).*
4. *Certified copies of recommendation order / judgement of State Women's Commission (Send to Govt.) of each case, where compensation was awarded /recommended. (10 years)*
5. *Details about domestic violence cases (case wise and year wise break up)*
6. *Status report of section-4(1) (voluntary disclosure) under the J&K RTI Act-2009 implementation in digital form and non-digital form, if not implemented reasons thereof and also specify date for its implementation.*
7. *Sought information falls under section-4(proactive disclosure) hence you cannot charge additional fee as same has to provide proactively.*

That the PIO did not provide the requisite information and neither was information received even after filing of 1st Appeal dated 14-11-2017 (by post).

In his 2nd appeal the appellant has sought for directions to the PIO for providing information and also for action to be taken against the PIO and the FAA and imposition of penalty on the PIO.

Proceedings before the Commission:

This 2nd appeal came for hearing for the first time on 27-03-2018 at Jammu office of the SIC which was attended by a junior representative of

the PIO and a representative of the appellant at Srinagar office who was heard through video conferencing. The hearing was adjourned with the following directions:

“After hearing both the parties and perusal of the counterstatement filed by the PIO, it transpires that the PIO has not clarified how exemption under Section 8 is applicable and which sub-section of Section 8 applies in this case. It has also been observed that the PIO has sent a junior official before the Commission who was found unfamiliar with the provisions of the J&K RTI Act, 2009. The action of the PIO is viewed seriously and calls for an explanation from him. The J&K State Information Commission (Management) Regulations 2015 dated 17-11-2015 have been amended vide SIC Notification dated 7th December, 2017 as a result, now the PIO or the FAA are not authorized or allowed to send a representative in the hearing before the Commission. It was intimated by the representative of the PIO that no officer had been appointed as FAA in J&K SWC and therefore FAA was not in place. It is now, directed that the PIO, SWC shall reformulate a fresh para-wise reply to the RTI application within two weeks from the date of next date of hearing. The PIO is further directed to appear before the Commission in person on 12th of April, 2018 at Srinagar office of the Commission along with the counterstatement to the 2nd appeal. As regards non appointment/ non-availability of FAA, the Secretary /PIO shall file a separate reply on behalf of the SWC to clarify the matter.”

The appeal came up for 2nd hearing at Srinagar on 12-04-2018 which was attended by the appellant Dr. Sheikh Gulam Rasool and the PIO Sh. Ajaz Abdullah, Secretary, State Commission for Women. The PIO submitted a counterstatement dated 11-04-2018 which stated as under:

“In compliance with the directions given in the Interim Order dated 27-03-2018 (file No. SIC/CO/SA/ 567/2018) passed by the Hon’ble Chief Information Commissioner in the 2nd appeal titled Dr. Shaikh Ghulam Rasool v/s First Appellate Authority & PIO Women Commission, J&K Jammu under J&K RTI ACT, 2009, the counter statement on behalf of the State Commission for Women is submitted as under:-

The J&K State Commission for Women received an application under J&K RTI ACT, 2009 on 22-09-2017 from Dr. Shaikh Ghulam Rasool C/O J&K RTI Movement Malik House, Hyderpora, Near Al. Amin Hospital, Airport Road, Srinagar seeking certain information regarding the Commission.

The information / reply was compiled in the Commission and was sent to the information seeker Dr. Shaikh Ghulam Rasool within stipulated time vide this Commission’s letter No. SCW/15/2008/811 dated 20-10-2017 along with enclosures (viz Annual Reports) which contains the details regarding the cases registered in this Commission as sought by him. The said information was duly sent to the information seeker through registered post on the address provided by him.

This Commission, however, is not aware about the first appeal filed by him as the same has not been received here.

The Commission, apart from the Hon'ble Chairperson and two part time members has only one gazetted officer viz. the Secretary, who acts as its Public Information Officer. The rest of the staff working in this Commission comprises of non-gazetted officials who have been deployed by General Administration Department. The Social Welfare Department in the Secretariat is the Administrative Department for the Commission.

In compliance with the directions given in the Interim Order dated 27-03-2018 (file No. SIC/CO/SA/567/2018) passed by the Hon'ble Chief Information Commissioner on the 2nd appeal, this Commission has sent fresh point wise reply /information to the information seeker /appellant Dr. Shaikh Ghulam Rasool along with enclosures vide this office letter No. SCW/15/2008/346 dated 07-04-2018 on the address provided by him.

This Commission has not defaulted in providing the sought information available with it to the information seeker under the provision of J&K RTI ACT, 2009 within the stipulated time."

The PIO also informed that the Women's Commission conducts hearing while maintaining confidentiality as personal problems of women applicants are heard and considered by the Commission and also the written complaints submitted are not disclosable and cannot be disclosed under the J&K RTI Act, 2009 as very personal information is often contained in

the complaints. The appellant conceded that he had received information from the PIO by post.

Directions:

- a. The PIO's contention that copies of complaints and other personal information submitted to the Women's Commission cannot be disclosed in view of personal nature of information contained therein is upheld as exempted under Section 8(1) and specifically under Section 8(1)(i) which reads as under:**

"information which relates to personal information the disclosure of which has no relationship to any public activity or interest. Or which would cause unwarranted invasion of the privacy of the individual unless the Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provide that the information which cannot be denied to the Parliament or the State Legislature shall not be denied to any person."

- b. The PIO is well within his rights to take a view on what other information, if any, is disclosable in respect of this RTI application and ensure that whatever information is disclosable is provided.**

c. The PIO should bring to the notice of the Hon'ble Vice Chairperson, the need to have a PIO and FAA in their Commission for proper implementation of the J&K RTI Act in the J&K State Commission for Women.

In this regard the Hon'ble VC may take up the matter with the State Government for posting of another officer above the level of Deputy Secretary to function as FAA in the Commission or have at least one Under Secretary posted to function as the PIO so that the present PIO/Deputy Secretary then is appointed as FAA.

With the above observations and directions, this 2nd appeal is disposed of.

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

Sd/-

(Khurshid A. Ganai)

Chief Information Commissioner

Dated: .04.2018

No: SIC/CO/SA/567/2018_____

Copy to:

1. Vice Chairperson, J&K State Commission for Women for information and necessary action.
2. PIO/Secretary, J&K State Commission for Women for information and necessary action.
3. Private Secretary to HCIC for information of the HCIC.
4. Appellant/Dr. Sheikh Ghulam Rasool C/O J&K RTI Movement, Malik House Hyderpora near Al-Amin Hospital Airport Road Srinagar-190014 for information.
5. Office file.

(Sheikh Fayaz Ahmad)

Registrar

J&K State Information Commission