



Jammu and Kashmir State Information Commission
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/543 /2017
Decision No. SIC/CO/SA/543/2017/1085

Final order

(2nd Appeal)

Appellant : Shri A.R.Salmani, 42-A Budshah Nagar
Srinagar.

Respondents : First Appellate Authority(FAA)/ Public Information
Officer (PIO), General Administration Deptt.Civil
Secretariat, J&K

Date of Registration : 27.11.2017

Date of Decision : 26-03-2018

This 2nd appeal has arisen from the RTI filed by Shri A.R.Salmani on 05.09.2017 with the PIO, General Administration Department seeking following information:-

- 1. Photostat copy of letter No.1512-GAD of 2010 dated 31.12.2010 regarding repatriation of undersigned as Addl.Secretary to Legislative Assembly.***
- 2. Photostat copy of Letter No. LA- 156/Adm/2011 dated 05.01.2011 received from legislative Assembly regarding retention of undersigned in the Personal Section of the Ex-Deputy Chief Minister, J&K.***
- 3. Photostat copy of the letter addressed to Secretary Assembly in response to letter LA-156/Adm/2011 Dated 05.01.2011 asking therein for adjustment on my substantive post by making reversion in the Legislative Assembly.***

Aggrieved by the non-response from the PIO,GAD, the appellant filed First Appeal before the First Appellate Authority on 09.10.2017. The First Appellate Authority heard both the parties on 25.10.2017 and disposed of the First Appeal with the following directions to the PIO,GAD:

'In view of the above, PIO GAD, is directed to provide the information the applicant/appellant, within weeks time after opening of offices at Jammu, under J&K Right to Information Act,2009, further he has

been warned to remain cautious while dealing with such application in future.'

On perusal of the file, the PIO, GAD vide communication No.GAD(Ser)RTI(127)/2017 dated 15.11.2017 provided the information to the RTI applicant on two points. However, on the third point the PIO informed the appellant(then RTI applicant) that the requisite communication is not available in the records of GAD as such may be obtained from the Legislative Assembly.

The appellant approached the State Information commission and filed 2nd Appeal on 27.11.2017 stating therein that despite directions from the FAA, the PIO has failed to provide him the requisite information.

Proceedings before the Commission

The 2nd Appeal came up for hearing for the first time on 10.01.2018.12.2017 in which the PIO/GAD, Shri Sanjay Tickoo and Shri A.R.Salmani (Appellant) attended. After hearing both the parties the hearing was adjourned with the following directions:

The PIO/Under Secretary, GAD is directed to continue efforts to locate the file and provide the remaining information sought by the appellant before the next date of hearing. The PIO is free to take up the matter with the Assembly Secretariat to locate the reference reportedly sent by the GAD to the Assembly Secretariat about Shri A.R.Salmani, a retired Addl. Secretary of the Assembly Secretariat.

Time period for disposal of this 2nd Appeal was further extended by another 60 days w.e.f 27.01.2018 in terms of powers vested in the SIC under Section 16 (11) of the J&K RTI Act,2009 to ensure continuation of hearings for final and judicious disposal of the appeal.

This 2nd Appeal came up for final hearing today on 26.03.2018. Both the parties were present during the hearing. The PIO stated that in compliance with the interim directions dated 10.01.2018 he took up the matter with the Secretary, Legislative Assembly vide communication dated 15.03.2018 whereunder the Legislative Assembly was requested to provide the requisite information in respect of Point No.03 of the communication dated 15.11.2017 to the information seeker under an intimation to the J&K SIC and the PIO,GAD. Both the parties were heard at length. He also informed that the reference couldn't be traced in GAD records despite sincere efforts made in this regard.

Decision

During the last hearing dated 10.01.2018, the Commission directed the PIO/Under Secretary, GAD to continue efforts to locate the file and provide the remaining information sought by the appellant before the next date of hearing and that the PIO is free to take up the matter with the Assembly Secretariat to locate the reference reportedly sent by the GAD to the Assembly Secretariat about Shri A.R.Salmani, a retired Addl. Secretary of the Assembly Secretariat.

Since the PIO,GAD has failed to locate the file/reference in the Department and he has also failed to obtain the copy of the reference from the Assembly Secretariat, there is no alternative but to give a direction to the Public Authority i.e, General Administration Department through its Administrative Secretary, in exercise of powers vested in the Commission under Section 16(9)(a)(i), to take up the matter with the Assembly Secretariat who are expected to have the reference in its record and provide the same to the appellant Sh.A.R.Salmani. Simultaneously, in exercise of powers vested in the State Information Commission under Section 16(9)(a)(i), the Administrative head of the Assembly Secretariat i.e, Secretary, Legislative Assembly is also directed to locate the reference in its record and provide the same to the Commr/Secretary, GAD so that they can provide the requisite information to the information seeker. This may be done within a period of 21 days from the date of receipt of this order.

With these directions this 2nd appeal filed before the State Information Commission is disposed of.

The copy of Order be provided to the parties free of cost.

Sd/-
(Khurshid A. Ganai)
Chief Information Commissioner

Copy to the :-

1. *Public Authority/Commr/Secretary to Government, General Administration Department for information and n/a.*
2. *Secretary, J&K legislative Assembly, Jammu for information and n/a.*
3. *First Appellate Authority (FAA), GAD for information and n/a.*
4. *Public Information Officer (PIO) GAD for information and n/a.*
5. *Pvt.Secy. to HCIC for information of the HCIC.*
6. *Shri A.R.Salmani, 42-A Budshah Nagar, Srinagar.*
7. *Office Order file.*
- 8.

(Sheikh Fayaz Ahmed)
Registrar
J&K State Information Commission