



Jammu and Kashmir State Information Commission

جموں اینڈ کشمیر اسٹیٹ انفارمیشن کمیشن

(Constituted under the Right to Information Act, 2009)

**Wazarat Road, near DC Office Jammu, 0191-2520947, 2520937
Old Assembly Complex, Srinagar, 0194-2506660, 2506661(F)**

www.jksic.nic.in

File No. SIC/K/SA/07/2018

Decision No. SIC/K/SA/07/2017/**116**

Appellant: Mr. Manzoor Ahmad Shah S/o
Muhammad Maqbool Shah R/o Khag,
Budgam

Respondents: 1. First Appellate Authority (FAA) /Chief
Engineer, PHE, Kashmir
2. Public Information Officer
(PIO)/Executive Engineer, PHE, Budgam

Date of Registration : 06-01-2018

Date of Decision : 26-03-2018

Final Order

This appeal has arisen out of the RTI application dated 24-08-2017 filed by the appellant namely Manzoor Ahmad Shah seeking following information from PIO/ Executive Engineer, PHE, Budgam:-

- 1. Provide me list of all the PHE GR (agreements) beneficiaries of Khag.*
- 2. Provide me list of all the PHE GR agreements registered in last five years.*
- 3. Provide me list of all the works and developments that have taken place from 2010 till date in Khag.*

As no information was provided to the applicant by the PIO within the specified period, the applicant filed first appeal on 23-10-2017 with FAA/Chief Engineer, PHE, Srinagar. The PIO O/o Chief Engineer, PHE Kashmir vide communication dated 10-11-2017 informed the applicant that the FAA in his case was Superintending Engineer, Hydraulic Circle Budgam and therefore, the applicant should approach him with his first appeal. The applicant, thereafter approached the SIC with his 2nd appeal on 01-01-2018 which was admitted by the Commission on 06-01-2018.

Proceedings before the SIC:

The 2nd appeal came up for hearing on 21-02-2018. Mr. G. R. Leherwal PIO O/o Chief Engineer, PHE Kashmir, Mr. Parvaiz Ahmad Khanday, AEE/TO to Executive Engineer, PHE Division Budgam, Mr. Musthaq Ahmad, AEE/PIO PHE Sub-Division,

Beerwah, Budgam, Appellant Mr. Manzoor Ahmad Shah and representative of the appellant Ms Deeba were present. The PIO submitted that the information sought by the appellant has been provided to him on 19-02-2017. The appellant admitted during the hearing that he has received the information on 19-02-2017 and is satisfied with the said information. However, the appellant submitted that the PIO has provided the said information much after the expiry of the specified period of 30 days and as such, the PIO is liable to penalty under section 17 of the RTI Act. Accordingly, the hearing was adjourned with a direction to the PIO to explain the delay in providing the information to the appellant within the specified period. He was directed to submit his explanation within a period of 15 days from the receipt of the order dated 21-02-2018.

The appeal again came up for hearing today on 26-03-2018. Mr. Muhammad Shafi Sofi, Technical Officer to O/o Chief Engineer, PHE, Kashmir, Mr. G. A. Bang, PIO/Executive Engineer, PHE Division, Budgam and Appellant Mr. Manzoor Ahmad Shah attended the hearing.

In pursuance of the directions of the Commission dated 21-02-2018, the PIO submitted his explanation vide No. 8188-90 dated 23-03-2018 explaining the cause of delay in providing information to the appellant beyond the prescribed period. The PIO submitted that in view of the draught like situation in Budgam area, the entire staff of the Sub-Division was engaged with measures to over-come the emergency situation. It was for this reason that the information has gone to the appellant little late. The PIO also submitted that the delay in providing information was not deliberate or intentional. Since the entire information has been provided to the appellant and the appellant is satisfied with the information so provided, the Commission is inclined to accept the explanation tendered by the PIO with regard to the delay in furnishing the information and accordingly, the delay is condoned. However, the PIO is directed to remain cautious in future and accord utmost priority in responding the RTI requests within the period specified in sub section (1) of Section 7 of the J&K RTI Act, 2009. The appeal is accordingly disposed of.

Sd/-
(Mohammad Ashraf Mir)
State Information Commissioner

Copy to the:-

1. First Appellate Authority (FAA)/Chief Engineer, PHE, Kashmir
2. Public Information Officer (PIO)/Executive Engineer, PHE, Budgam
3. Mr. Manzoor Ahmad Shah S/o Muhammad Maqbool Shah R/o Khag, Budgam

(M. S. BHAT)
Deputy Registrar,
J&K State Information Commission, Sgr

**Before the State Information Commissioner,
Jammu and Kashmir State Information Commission, Srinagar**

File No. SIC/K/SA/07/2018

INTERIM ORDER

Subject: 2nd Appeal titled Mr. Manzoor Ahmad Shah Vs First Appellate Authority (FAA)/Chief Engineer, PHE/Public Information Officer (PIO)/Executive Engineer, PHE, Budgam

Proceedings on 21-02-2018.

This 2nd appeal came up for hearing today on 21-02-2018.

Mr. G. R. Leherwal PIO O/o Chief Engineer, PHE Kashmir, Mr. Parvaiz Ahmad Khanday, AEE/TO to Executive Engineer, PHE Division Budgam, Mr. Musthaq Ahmad, AEE/PIO PHE Sub-Division, Beerwah, Budgam, Appellant Mr. Manzoor Ahmad Shah and representative of the appellant Ms Deeba attended the hearing.

During the proceedings, the appellant admitted that he has received the information sought by him from the PIO/Executive Engineer, PHE Division, Budgam vide his letter dated 19-02-2017. However, the appellant and his representative pressed hard during the proceedings for imposing penalty on the PIO as he has failed to provide the information within the period specified in the RTI Act.

The PIO has provided the information only after the appellant filed the 2nd appeal before the SIC.

The appellant has admitted receipt of the requisite information by sought by him vide his RTI application dated 24-08-2017. Therefore, the only question to be adjudicated in this appeal remains the default and delay on the part of the PIO in providing the information to the appellant within the time specified in Section 7 (1) of the Act. The PIO himself stated that the information was sent to the appellant on 17-01-2018 through registered post. In otherwords, the information has been provided to the appellant after a lapse of more than four months. It is also evident from the facts of the case that the information was provided by the PIO only after the appellant filed the 2nd appeal before the SIC on 06-01-2017.

Sub-section (2) of Section 7 of the RTI Act provided that:-

“If the Public Information fails to give decision on the request for information within the period specified under sub-section (1) the Public Information Officer shall be deemed to have refused the request.”

In the present case, the PIO is deemed to have refused the request for information in terms of Section 7 (2) of the Act and is therefore, liable to penalty under section 17 of the Act.