



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.447-2017
Decision No. SIC.CO.SA.447-2017/1120

Final Order

(Non Compliance of SIC's Order dated 14-06-2017 in 2nd Appeal)

- The then Appellant/
Now Complainant** : Ms. Shashi Bala (President Bharav Kali Mandir
Lane No-4, Dream City Muthi Jammu).
- Respondents** : First Appellate Authority (FAA)/Public
Information Officer (PIO) J&K, Commercial
Taxes Department
- Date of registration** : 17-02-2017
- Date of decision** : 15-05-2018

Brief Facts:

Briefly the facts of this case are that, a complaint for non compliance of the State Information Commission order dated 14-06-2017 in 2nd Appeal Ms. Shashi Bala v/s FAA/PIO J&K, Commercial Taxes Department, where in the FAA i.e. Deputy Commissioner commercial Taxes (Appeals 1st) Jammu was directed to give an opportunity of being heard to the appellant and dispose of the request for information within 30 days from the receipt of the Commission's order, was received in this Commission from the complainant (the appellant in

the 2nd Appeal) on 03-08-2017. The Commission vide letter dated 04-12-2017 sought reply from the Public Information Officer to the said complaint.

Thereafter the complaint was listed for hearing before the Commission on 16-02-2018. The hearing was attended by Ms Anju Anand, PIO O/O Commercial taxes Department and Sh Sandeep Sharma, representative of the complaint. During the hearing, the representative of the appellant submitted that requisite information has still not been provided to the appellant. In response the PIO submitted that photocopies of documents pertaining to information shall be provided to the appellant. After hearing the parties the case was adjourned with the directions to the FAA to explain through a counterstatement as to why the order of Commission dated 14-06-2017 had not been complied with.

The complaint for non-compliance came up for hearing before the Commission again today on 15-05-2018. The hearing was attended by Sh. Ranjit Singh, Deputy Commissioner Commercial Taxes (Appeal 1st) Jammu and Ms Anju Anand, PIO Sales Tax Department Jammu through video conferencing. The representative of the complainant, Sh. Sandeep Sharma also attended the hearing. During the hearing the representative of the complainant submitted that the order of the Commission has not been complied with by the respondents. In response, the present FAA stated that appeal filed by the complainant (the then appellant) had already been disposed of by the then FAA vide order dated 11-04-2017. However when enquired as to why the order of the Commission dated 14-06-2017 whereby the FAA was directed to dispose of the RTI application after giving opportunity of being heard to the appellant (now complainant) has not been complied with, the FAA failed to give any credible explanation. The written statement submitted by him also does not address the said query as to why the order of the Commission dated 14-06-2017 has not been taken cognizance of by the then FAA, Sh. Ashish Kumar Gupta DC, Commercial Taxes (Appeals-I).

Both the parties were heard and record was also perused.

Decision:

After having heard the parties and in the light of the facts of the case , the Commission is of view that that the award of compensation is called for in this case since the respondents have miserably failed to comply with the orders of the Commission as a result of which the appellant has suffered financially, physically and also faced mental agony due to continued denial of information as sought by him while exercising his “Right to Information” under the J&K RTI Act, 2009.

However the Public Authority i.e. Commissioner Commercial Taxes Department Jammu is given an opportunity to explain as to why a token compensation of Rs. 5000/- (Rs. 2000/-on account of transportation charges likely to have been incurred by the complainant in pursuing the appeal with the Commission and approximately Rs 3000/- for physical stress and mental agony caused to her due to continued denial of information in terms of Section 16(9)(b) of the J&K RTI Act, 2009 may not be awarded in favour of the then appellant/ now complainant for the loss and detriment suffered by her due to denial of information sought while exercising her “Right to Information” even after the Commission’s order in the 2nd Appeal dated 14-06-2017. It will be appropriate if the Commissioner Commercial (Taxes) as head of the Public Authority charges the compensation amount determined above to the then FAA, Sh. Ashish Kumar Gupta who is reportedly still working in the Commercial Taxes Department due to his failure to implement the orders of this Commission dated 14-06-2017 as the then FAA, otherwise, the Public Authority itself will have to pay the requisite amount to the appellant / now complainant, Ms. Shashi Bala.

The reply of the Public Authority Commissioner, Commercial Taxes shall reach within 15 days from the date of receipt of this order. Registry to fix the next hearing for the purpose to receive the reply of the Public Authority / Commissioner, Commercial Taxes, J&K.

Further the Public Authority i.e. Commissioner, Commercial Taxes department Jammu is directed to ensure that the balance information is provided to the then appellant / now complainant within 15 days from the date of receipt of this order.

With the above directions, this complaint is disposed of.

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

**Sd/-
(Khurshid A. Ganai)
Chief Information Commissioner
J&K State Information Commission**

File No: SIC.CO.SA.447-2017_____

Dated: - -2018

Copy to:

01. First Appellate Authority (FAA), Commissioner Commercial Taxes Department, J&K Jammu for information and necessary action.
02. Sh. Ashish Kumar Gupta (ex-FAA), presently working in O/O Commercial Taxes Department Jammu for information and necessary action.
03. Private Secretary to HCIC for information of the HCIC.
04. Complainant, Ms. Shashi Bala, President Bharav Kali Mandir, Lane No-4, Dream City Muthi Jammu-181205 for information.
05. Office File.

**(Sheikh Fayaz Ahamd)
Registrar
J&K State Information Commission**

Zahoor A. Bhat