



**Jammu and Kashmir State Information Commission**

شہن یشن کمیتہ انفارمیر اسٹیٹسٹ 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](http://www.jksic.nic.in)

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File No. SIC/CO/Comp/167/2018

Decision No. SIC/CO/Comp/167/2018/1121

**Final Order**  
**(Complaint)**

Complainant : Sh. M.M. Shuja.  
Respondents : Public Information Officer (PIO), J&K Special Tribunal Jammu/Srinagar.  
Date of Receipt : 17.01.2018.  
Date of Decision : 16.05.2018.

**Brief Facts:**

This is a complaint filed under section 15 of the J&K RTI Act, 2009 (Act for short) by Sh. M.M. Shuja, Senior Journalist/Human Rights/RTI Activist, Address: Samad Complex Bagat Chowk, opp. HDFC bank-Room No. 313, Srinagar, Kashmir-190005 on 17.01.2018 interalia alleging that requisite information has not been provided to him within the stipulated time period in response to his RTI application dated: 13.09.2017.

**Proceedings:**

The complaint came up for hearing before the State Information Commission (SIC) on 16.05.2018. PIO/Sh. Vijay Kumar Sharma (KAS), Deputy Registrar, J&K Special Tribunal, Jammu attended the hearing

through Video Conferencing from Jammu office of the Commission. The complainant did not attend despite advance notice.

During the hearing, the PIO submitted that the requisite information has been provided through speed post on 03.02.2018 and also through e-mail on 01.02.2018. In the counter statement to this complaint, the PIO has given reasons as to why the RTI application remained unattended as under:

- “1. That on 14.09.2017 a RTI application was filed by the complainant before the Kashmir Wing of this Tribunal, which was subsequently faxed to Jammu Wing of the Tribunal, as the undersigned being PIO of J&K Special Tribunal, is headquartered at Jammu and maintain the records, pertaining to Jammu Division only. The information sought by the complainant through RTI application, pertains to Kashmir Wing of the Tribunal, so the undersigned acting promptly on RTI application vide letter no. STJ/197/2017 dated: 15.09.2017, advised the APIO/Assistant Registrar, J&K Special Tribunal, Srinagar to provide the information to the complainant, within prescribed time, with an intimation to undersigned.***
- 2. That since the undersigned vide above referred letter dated: 15.09.2017, had advised the APIO/Assistant Registrar, J&K Special Tribunal Srinagar to provide the information to complainant/applicant within prescribed time, the undersigned was under the impression that the APIO would have provided the information to applicant within prescribed time.”***

The PIO submitted that he had advised the APIO to provide the information and that unfortunately the APIO failed to provide the information, but it is also true that the complainant did not file First Appeal before the First Appellate Authority (FAA) and if he had filed the same then

in that case they would have definitely provided the information. That in the instant case the complainant has chosen to file a complaint instead.

**Decision:**

**The Commission has gone through the complaint and it has been found that instead of filing a complaint, the complainant should have actually filed the First Appeal before the FAA to obtain the information sought for. It seems that filing of the complaint was rather premature on the part of the complainant and instead he should have filed the First Appeal as provided under the J&K Right to Information Act, 2009.**

**Be that as it may, it is directed that the PIO shall remain careful in future while dealing with the RTI applications. He must understand that the role of the APIO under the RTI Act is only of receiving the RTI applications and that it is the responsibility of the PIO under the Act to provide the relevant information. Sections 5, 6 and 7 are important to be gone through by every PIO as these sections deal with receipt of application, collection of information by the PIO and provision of information by the PIO. Notwithstanding this, no malafide has been found on the part of the PIO and, therefore, this complaint is disposed of only with the directions that the PIO must ensure that information has been actually despatched to the complainant (the then RTI applicant). No case is made out for holding inquiry under section 15 (2) or orders under section 17 of the J&K RTI Act.**

*With these observations/directions the complaint is disposed of.  
Copy of this decision be given free of cost to the parties.*

**Sd/-**

**(Khurshid A. Ganai)**

Chief Information Commissioner

(P.A. Ajay)

No: SIC/CO/Comp/167/2018\_\_\_\_\_

Copy to:

Dated:

1. PIO/Deputy Registrar, J&K Special Tribunal, Jammu Wing for information and necessary action.
2. Private Secretary to CIC for information of the HCIC.
3. Complainant/Sh. M.M. Shuja, Senior Journalist/Human Rights/RTI Activist, Address: Samad Complex Bagat Chowk, opp. HDFC Bank-Room No. 313, Srinagar, Kashmir-190005 for information.
4. Office file.

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