



**Jammu and Kashmir State Information Commission**

شنیشن کمیٹی انفارمیری اسٹیٹسٹ 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](http://www.jksic.nic.in)

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File No. SIC/J/A/244/2018

Decision No. SIC/J/A/244/2018/254

**Final Order**

*(Second Appeal)*

Appellant : Sh. Narinder Pal Suri.  
Respondents : First Appellate Authority (FAA)/Sub-Divisional Magistrate (SDM), Jammu (South) and Public Information Officer (PIO)/ Tehsildar, Bahu Jammu.  
Date of Registration : 12.03.2018.  
Date of Decision : 31.05.2018.

**Brief Facts:**

The appellant Sh. Narinder Pal Suri, R/o. 221/21 Madhu Kunj Upper Laxmi Nagar, Sarwal P.O. Rehari while exercising his right to information filed an RTI application dated: 26.09.2017 with the PIO/Tehsildar, Bahu Jammu for provision of certain revenue documents/record for land Khasra Nos. 772 & 773 village Sunjwan. The PIO failed to respond to the RTI application within the stipulated time period.

Aggrieved by the non-response of the PIO, the appellant (the then RTI applicant) filed First Appeal before the Deputy Commissioner, Jammu on 20.11.2017 which was forwarded by Deputy Commissioner, Jammu on

27.11.2017 to SDM, Jammu (South) with directions to dispose of the First appeal in terms section 16 (1) of the J&K RTI Act, 2009. However, no response was given to the appellant by the office of the FAA within the prescribed time period. Accordingly, the appellant approached the J&K State Information Commission by filing 2<sup>nd</sup> appeal under section 16 (4) of the J&K RTI Act, 2009 on 05.03.2018 (admitted on 12.03.2018).

### **Proceedings:**

The 2<sup>nd</sup> appeal came up for hearing for the first time before the Commission on 05.04.2018. The hearing was attended by the PIO/Sh. Farooq Khan, Tehsildar Bahu, Jammu and the appellant. The appellant submitted that no reply or information has been received from the FAA/PIO till date. However, the PIO submitted that he has joined the office recently and has brought a copy of the requisite information as collected from the field staff for providing to the appellant. The hearing was adjourned with the following directions:

***“In view of the submissions of both the parties, the State Information Commission directed the PIO, during the hearing, to handover the copies of information brought by him to the appellant. That he should go through the RTI application and the memo of the 2<sup>nd</sup> appeal and provide balance/remaining information, if not provided so far. The PIO is also directed to file counter statement/reply to the 2<sup>nd</sup> appeal within one week from the date of receipt of this order with an advance copy to the appellant who may file his rejoinder to this and information provided today during the hearing, if any, before the next date of hearing.*”**

The appeal was again listed for hearing on 25.04.2018. Neither the FAA nor the PIO attended the hearing. However, the appellant attended the hearing in person. The hearing was adjourned with the following directions:

- “1. The absence of PIO and the FAA in the hearing today has not only caused mental and physical inconvenience to the appellant but also financial loss to him and, who, therefore, had to bear expenses on transport from his home to the SIC office and had also to forgo the day’s productive work which in economics is called ‘opportunity cost’. Therefore, the appellant deserves to be compensated for this loss. An amount of Rs. Two Hundred (200/-) for transport and Rs. Five Hundred (500/-) as opportunity cost, total Rs. Seven Hundred (700/-) only is, therefore, directed to be paid by the Public Authority/Tehsildar, Bahu Jammu to the appellant as compensation in terms of section 16 (9)(b) of the J&K RTI Act, 2009.**
- 2. As one copy of reply dated: 04.04.2018 has been sent by the PIO in response to the RTI application dated: 26.09.2017 (allegedly incomplete as per averments made in the 2<sup>nd</sup> appeal), the PIO has clearly violated section 7(1) of the Act, as the requisite information has not been provided by the PIO within the stipulated time period of thirty days from the date of filing of the RTI application, the PIO is, therefore, directed to show cause as to why penalty under section 17 of the J&K RTI Act, 2009 may not be imposed on him for not performing his statutory duties as per the provisions of the Act and violation of section 7(1).**
- 3. In the meantime, the PIO is also directed to provide the balance information, if not provided so far, and also file counter statement within one week from the date of**

***receipt of this order, with copy to the appellant, who may file rejoinder, if any, before the next date of hearing."***

The statutory time period of sixty days in this 2<sup>nd</sup> appeal expired on 12.05.2018 and accordingly the time period for disposal was further extended by another sixty days in terms of section 16 (11) of J&K RTI Act, 2009 to enable the SIC to conduct more hearings for judicious and appropriate disposal in the interest of the objectives of the J&K RTI Act, 2009.

The appeal was again taken up for final hearing today on 31.05.2018. The hearing was attended by the PIO/Tehsildar, Bahu Jammu and the appellant. The PIO reiterated that he was not aware of the RTI application filed by the appellant in the month of September, 2017 as he has joined as Tehsildar, Bahu Jammu recently. He submitted that after receiving the notice of the Commission in the 2<sup>nd</sup> appeal he has made all the efforts with the help of field staff to prepare the reply to the RTI application filed by the appellant. The copy of reply prepared was also provided to the appellant during hearing. The appellant after going through the reply pointed out certain shortcomings in the reply. However, the PIO submitted that the reply has been prepared as per the available record but he is still ready to again go through the record and provide the balance information, if any.

Regarding non-appearance before the Commission and payment of compensation to the appellant, the PIO filed a written reply during the hearing, wherein it has been stated that on hearing dated: 25.04.2018, his

non-appearance was not deliberate but due to his deployment as Magistrate Duty on the arrival of Sh. Dineshwar Sharma (GOI representative for Peace Talks, MHA) at Jammu.

**Decision:**

**After hearing both the parties and on perusal of records on file, it transpires that although there is a delay in the provision of the requisite information to the appellant but it cannot be attributed to the present PIO/Tehsildar, Bahu Jammu as he had joined the post after the second appeal was filed by the appellant. Since the present Tehsildar, Bahu was not the PIO at the time of filing of the RTI application till recently, the penalty proceedings against him will abate. It is also learnt that non-appearance of the PIO before the Commission on 25.04.2018 was also due to his deployment on Magistrate Duty as such, the Public Authority is now exempted from payment of compensation to the appellant. However, the PIO/Tehsildar, Bahu Jammu is directed to review the reply provided to the appellant and see what additional information can be provided in terms of the RTI application dated: 26.09.2017 and the RTI Act and the Rules thereof.**

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

*Sd/-*

**(Khurshid A. Ganai)**

Chief Information Commissioner

(P.A. Ajay)

No: SIC/J/A/244/2018\_\_\_\_\_

Dated:

Copy to:

1. FAA/Sub-Divisional Magistrate, Jammu (South) for information.
2. PIO/Tehsildar, Bahu Jammu for information and necessary action.
3. Private Secretary to CIC for information of the HCIC.
4. Appellant/Sh. Narinder Pal Suri, R/o. 221/21 Madhu Kunj Upper Laxmi Nagar, Sarwal P.O. Rehari for information.
5. Office file.

(Baldev Raj)  
Joint Registrar  
J&K State Information Commission