



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

www.jksic.nic.in

File No. SIC/K/SA/34/2018

Decision No. SIC/K/SA/34/2018/ 36

Final Order

Appellant : Dr. Sheikh Gh. Rasool

Respondents : First Appellate Authority (FAA)/ Public Information Officer (PIO), Gulmarg Development Authority, Tangmarg, Baramulla

Date of Registration : 09.03.2018.

Date of Decision : 19.06.2018.

The brief facts of this 2nd appeal are that the appellant filed the 2nd appeal before the State Information Commission (SIC) on 09.03.2018 stating therein that he filed an RTI application dated 13.09.2017 before the PIO O/O Gulmarg

Development Authority, Tangmarg, Baramulla seeking information on 10 queries pertaining to construction permissions, NOCs, illegal hotels etc. in Gulmarg and other related information from the Gulmarg Development Authority (GDA). In view of non-response of the PIO, the appellant filed First Appeal before the designated FAA, Gulmarg Development Authority on 08.11.2017. The appellant alleges that after filing of First appeal, some information was provided to him, which is totally incomplete and misleading. Not satisfied with the approach of the PIO and the FAA in providing the requisite information, the appellant filed the 2nd appeal before the Commission on 09.03.2018 requesting there in that the PIO/FAA be directed to provide him the complete and certified copies of information as per his RTI application dated 13.09.2017 as soon as possible, besides, necessary action may be taken against the said PIO and the FAA under the provisions of the J&K RTI Act, 2009 for their failure and delay in providing him the requisite information within the stipulated time period as laid down under the Act.

The statutory time period of sixty days in this 2nd appeal had expired on 08.05.2018 and accordingly the time period for disposal was further extended by another sixty days in terms of section 16 (11) of the 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.

This 2nd appeal came up for hearing before the State Information Commission on 16.05.2018. Neither the respondents (FAA/PIO) nor the appellant attended the hearing despite advance notice dated: 10.05.2018. Interim order dated 16.05.2018 stated as under:

In view of the absence of the parties in the hearing, the hearing in the 2nd and in order to provide them an opportunity of being heard, the hearing of this 2nd appeal is adjourned. However, the respondents (FAA/PIO) are directed to furnish in writing the reasons for non-attendance before the Commission today on 16.05.2018. The reply of the respondents should reach the Commission within 07 days from the date of receipt of this order failing which it will be presumed that the appellant's assertions in the 2nd appeal are based on facts and accordingly, penalty proceedings shall be initiated against the PIO under section 17 of the J&K RTI Act, 2009 for not providing the information in time and for violation of section 7(1) of the Act.

This 2nd appeal came up again for hearing today on 19.06.2018. Mr. Nissar Ahmad Lala, AEE/PIO, Gulmarg Development Authority (GDA) and appellant Dr. Sheikh Gh. Rasool attended the hearing.

During the proceedings, the PIO, GDA submitted that the information as asked for by the RTI applicant stands already furnished to him by his office vide letter No.GDA/2017/2089-91 dated 06.12.2017 along with 330 pages through speed post. The appellant, however, admitted receipt of the information comprising of 330 pages but submitted that the same is false, incomplete and misleading.

The PIO GDA was accordingly directed to prepare and furnish a fresh para wise reply to the appellant as per his basic RTI application dated 13.09.2017 within a period of 15 days from the date of issue of this order and inform the SIC accordingly. In case the appellant is not satisfied with the information furnished by the PIO, he shall be free to file a complaint under Section-15 of the Act. As regards, non-attendance of the PIO and the FAA during the hearing on 16.05.2015, the PIO GDA vide letter dated 24.05.2018 has submitted that although the FAA/PIO were supposed to appear before the SIC on 16.05.2018 (at 2.00PM) but they could not attend the hearing on the said date as his office received the hearing notice on the same date i.e., on 16.05.2018 at 2.00PM, the time when they were at Boota Pathree, Gulmarg site, which is some 10 KM ahead of Gulmarg and it was thus due to this reason that they were unable to attend the hearing of the 2nd appeal in the SIC.

In view of the submission of the PIO that they could not appear before the SIC on 16.05.2018 due to delay in receipt of the hearing notice, no further proceedings are required regarding their non-attendance before the SIC. However, the PIO has not informed the SIC about the delay caused in providing the information to the RTI applicant within the specified time period. He is accordingly, directed to explain as to why proceedings under 17(1) of the J&K RTI may not be initiated against him for his failure in providing the requisite information to the RTI applicant within the stipulated time as laid down under the Act. His reply, if any, should reach the SIC within 21 days from the date of receipt of this order.

With the above directions, the 2nd appeal filed before the SIC is disposed of. However the Registry will put up the file after explanation of the PIO is received in terms of the above directions.

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

(Ahmad Sajad, PA)

Copy to the:

1. FAA/ Chief executive Officer, Gulmarg Development Authority
2. PIO/AEE Gulmarg Development Authority

3. Private Secretary to CIC for information of the HCIC
4. Appellant—Dr. Sheikh Ghulam Rasool, C/o J&K RTI Movement, head office Malik house Hyderpora near Al-Amin Hospital, airport Road Srinagar
5. Office file

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