



Jammu and Kashmir State Information Commission

شنیشن کمیٹی انفارمیری اسٹیٹسٹو کشمیر جموں ا
(Constituted under the Right to Information Act, 2009)

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Old Assembly Complex, Srinagar, 0194-2506660, 2506661
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File No. SIC.CO.SA.574-2018
Decision No. SIC/CO/SA/574/2018/1132

Final Order
(Second Appeal)

Appellant : Sh. Aseem Sawhney
Respondents : First Appellate Authority (FAA)/Public Information Officer (PIO) O/O Power Development Department, J&K Civil Secretariat Srinagar.
Date of registration : 05-02-2018
Date of decision : 05-06-2018

Brief Facts:

Briefly the facts of this appeal are that the appellant while exercising his Right to Information filed an RTI application with the Power Development Department (PDD), Civil Secretariat Srinagar on 12-09-2017 seeking the following information:

- (1) Kindly provide the information whether is it a fact that the applicant on behalf of his client namely Sh Maharaj Krishan Bhat S/o Nilkanth Bhat previously R/o 15/5 Nanak Nagar Jammu now living at Pune had issued a legal notice to the Commissioner/ Secretary to Govt. PDD, Chief Engineer

PDD, Jammu. XEN E & MRE Div II, Gandhi Nagar, Jammu and Asst Ex. Engineer Gandhi Nagar, Jammu dated 21-07-2017 vide No. AS/0042/2017.

- (2) If yes, then kindly inform as to what action has been taken on the legal notice and please provide the copy of the notings made on the same by all the officers who had been issued the legal notice and all pages, leaves, letters, orders, minutes, notes etc may be provided duly attested by the PIO.
- (3) Kindly also provide the certified copies of the entire file made on the subject referred to above in question no. 1.

As the appellant did not get the PIO's response, he filed 1st Appeal on 17-11-2017 with the First Appellate Authority (FAA), PDD. His 1st Appeal was never disposed of which constrained him to file 2nd Appeal before the Commission, which was received on 05-02-2018.

Proceedings before the Commission:-

The 2nd Appeal came up for hearing before the Commission for the first time on 09-04-2018. The hearing was attended by Sh. Saleem Beigh, FAA who was heard through teleconferencing from the Jammu office of the Commission as video conferencing could not be held due to technical problem. The appellant did not attend as he sought adjournment on the ground that the Bar Association Jammu is on strike and for that reason he can't appear before the Commission. The FAA stated that the PIO has already filed counterstatement dated 27-03-2017 and that they have now provided the information after the legal notice in respect of which information had been sought was received in the Department / PDD. Earlier, the information could not be provided to the appellant (the then RTI Applicant) in time.

After having heard the respondents, the hearing was adjourned with the directions to the PIO of PDD to provide up to date information to the appellant as per his basic RTI application with in a period of one month. The appellant was also asked to file a rejoinder to the counterstatement of the PIO, the copy of which was reportedly sent to him. He was also asked to

inform the Commission regarding the receipt of information from the PIO by virtue of this order. The registry of the Commission was directed to fix the case for another hearing.

The 2nd Appeal came up for another hearing before the Commission on 22-05-2018. The hearing was attended by Sh. Saleem Beigh, Deputy Secretary / FAA and Smt. Reeta Koul, Under Secretary / PIO Power Development Department (PDD) Civil Secretariat Srinagar. The appellant was heard through video conferencing from Jammu office of the Commission.

During the hearing the appellant stated that full information sought for has not been provided to him by the PIO. He submitted that he has received incomplete reply to his queries from the PIO vide communication dated 19-04-2018. He requested for provision of information sought by him through his basic RTI application. The appellant sought some more time for filing the rejoinder to the counterstatement filed by the respondents. In response the respondents submitted that they have provided the requisite information to the appellant in compliance to Commission last interim order dated 19-04-2018.

The case was adjourned with the directions to the appellant to file rejoinder to the counterstatement of the respondents specifying the balance information within 07 days. The then PIO, PDD Sh. Bilal Mukhtar who had dealt with the RTI application was also directed to attend the Commission.

The case was taken for final hearing before the Commission on 05-06-2018. The hearing was attended by the Sh. Saleem Beigh, Deputy Secretary / FAA, Smt. Reeta Koul, PIO Power Development Department Civil Secretariat Srinagar and Sh. Bilal Mukhtar the then PIO PDD. The appellant was heard through voice calling. During the hearing the respondents reiterated their earlier stand that they have provided the requisite information to the appellant in pursuance to Commission order dated 09-04-2018 vide PIO's communication dated 18-04-2018. However the appellant still insisted for provision of full information which according to him is still pending.

During the hearing, the then PIO, Sh. Bilal Mukhtar was inquired about his failure to provide timely information to the applicant to which he submitted that he was not the PIO at the relevant point of time when RTI application was filed and that he was designated as PIO on 01-01-2018 where as the RTI application was filed on 12-09-2018. He submitted that he had responded to the RTI application within time on 26-12-2018. He submitted this in writing. The Commission observed that the then PIO Sh. Bilal Mukhtar cannot be held accountable for delay or responsibility for delay fixed on him as he was not the PIO at the time of filing of RTI application.

Both parties were heard and record was also perused.

Decision:-

In view of the assertion of the appellant that complete information has not been provided to him, the PIO is directed to reconsider the matter to ensure that all the information as per the basic RTI application dated 12-09-2017 of the appellant is provided to the appellant (the then RTI applicant) within 10 days from the date of receipt of this order failing which the penalty proceedings may be initiated against him u/s Section 17 of the J&K RTI Act, 2009. The appellant is free to file complaint for noncompliance in case of any contravention of the Commission order.

With the above directions this 2nd Appeal 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.574-2018-_____

Dated: - -2018

Copy to:

- 01.** First Appellate Authority (FAA), O/O Power Development Department (PDD), J&K Civil Secretariat Srinagar for information and necessary action.

02. Public Information Officer (PIO), O/O Power Development Department (PDD), J&K Civil Secretariat Srinagar for information and necessary action.
03. Private Secretary to HCIC for information of the HCIC.
04. Appellant, Sh. Aseem Sawhney, Advocate C/o Journey Line Building, Palace Road, Opp CPO Jammu for information.
05. Office File.

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

Zahoor A Bhat