



Jammu and Kashmir State Information Commission
(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/K/SA/41/2018
Decision No. SIC/K/SA/41/2018/**51**

Final Order

Appellant : Sh. Mohammad Ali Bhat
Respondents : PIO/Block Development officer (BDO)
Budgam
Date of Registration : 15.03.2018
Date of Decision : 04.07.2018

This 2nd appeal has arisen out of the RTI application dated 06.12.2017 jointly filed by Mr. Mohammad Ali Bhat, Mr Sikander Hussain, Mr. Manzoor Ahmad Dar and Syed Nasir Hussain before the PIO/BDO, Budgam seeking information on 13 queries as mentioned in the said RTI application. In view of the inaction of the PIO, the applicants namely Sh. Mohd Ali Bhat and Sh. Sikkander Hussain filed a joint First Appeal before the

FAA O/O Director, Rural Development Department, Kashmir on 15.01.2018. The FAA vide Order Dated DRDK/69/2017-18/35610-12 Dated 12.03.2018 disposed of the First Appeal, interalia with the following directions:-

“Now in the spirit of the Act, it is hereby ordered that Block Development Officer (PIO) after ascertaining the authentic status of BPL ration card of the applicant shall despatch the full information as sought by the appellants/information seekers through registered post without any charges, immediately after receiving this order.”

In view of the failure of the PIO in providing the appellants the requisite information even after the orders of the FAA, the appellants filed the 2nd appeal before the Commission on 15.03.2018 requesting therein that the respondent PIO be directed to provide them the requisite information and penalty as per provisions of the Act may be imposed upon the PIO for not providing them the information within the specified time as per provisions of the Act.

This 2nd appeal came up for hearing on 14.05.2018. Appellant Mr. Muhammad Ali Bhat attended the hearing. The respondent PIO did not attend. During the proceedings, the appellant stated that he had sought information from the PIO/BDO, Budgam through his RTI application on 06.12.2018, but the same was not provided to him and the PIO demanded a sum of Rs 50,000/- as fee for providing the information even though the appellant had submitted the BPL ration card as a proof that the RTI applicant being BPL, is entitled to received information free of cost in term of the RTI Act. The appellant further submitted that the PIO failed to provide the requisite information in spite of the orders of the FAA. Since the PIO was not present, the allegations remained unrebutted. The hearing in the 2nd appeal was adjourned with directions to the PIO to be present in person before the Commission on the next date of hearing, failing which it shall be presumed that the allegations levelled by the appellant are true. The PIO was also directed to file written statement before the next date of hearing.

This appeal again came up for hearing on 13.06.2018. Mr. Abdul Basit, PIO/AD (Planning) O/O Directorate of Rural Development Department, Kashmir and appellant Mr. Mohammad Ali Bhat attended the hearing. The PIO/BDO Budgam was again absent.

During the proceedings, it came to fore that the PIO/BDO Budgam not only failed to provide the information to the appellant but also has been avoiding the hearing of the appeal before the Commission. The non-appearance of the then BDO Budgam Ms. Azeeta Quershi as well as the present PIO/BDO Budgam Mr. Bilal Mukhtar Dar was viewed seriously by the Commission. Hearing was accordingly adjourned with directions to the Director, Rural Development Department, Kashmir to ensure that the present PIO/BDO appears before the Commission on the next date of hearing and also provides the information to the appellant within a period of 15 days from that day. Registry was directed to serve a show cause notice upon Mr. Bilal Mukhtar Dar, PIO/BDO Budgam to explain as to why he failed to provide the information to the appellant and also has to why he failed to appear before the Commission on consecutive hearings in spite of notices of the

Commission failing which the matter would be heard ex-parte against him.

The 2nd appeal again came up for hearing today on 04.07.2018. Mr. Bilal Mukhtar Dar PIO/BDO Budgam and appellant Mr. Mohammad Ali attended the hearing. During the proceedings, the PIO submitted that vide letter dated 29.06.2018, a detailed written reply has been submitted before the Commission. In the said reply the PIO/BDO has submitted that the basic RTI application was filed jointly filed by Mr. Mohammad Ali Bhat, Mr Sikander Hussain, Mr. Manzoor Ahmad Dar and Syed Nasir Hussain. In order to obtain information free of cost, the applicants were asked to furnish attested copies of BPL Ration Cards duly signed by Tehsildar. Subsequently two of the applicants namely Syed Nasir Hussain and Manzoor Ahmad Dar withdrew their RTI application on 09.01.2018. (The PIO produced copy of application signed by Syed Nasir Hussain and Sh. Manzoor Ahmad Dar requesting for withdrawal of the RTI application). The remaining applicants were requested vide communication dated 24.03.2018 to collect the information sought by them as the same was ready with the PIO. One of the applicants namely Sh. Skinder Hussain received

the information on 29.03.2018. (The PIO produced the receipt signed by Sh. Skinder Hussain acknowledging receipt of information). However, the 4th applicant namely Mohammad Ali Bhat did not turn upto receive the information till date, which has been prepared and was ready with PIO.

Decision:

From the pleadings made during the different dates of hearing, the Commission felt that the purpose of filing the RTI application and the present appeal by the applicants was to secure certain personal benefits in the matter of release of payments of the works executed by the applicants in Block Budgam. Three of the applicants have perhaps been accommodated by the PIO with the result two of these have withdrawn the RTI application and the 3rd has admitted to have received the information. There is no doubt that the applicants have not come with clean hands before the Commission in this appeal. This is an example of abuse of the provisions of the RTI Act, and an attempt of using the RTI mechanism for securing personal benefits.

The appeal is disposed of with a direction to the PIO to provide information to the remaining applicant namely Mohammad Ali Bhat in respect of Point No. 1, 4, 7 and 9 within 15 days from the date of issuance of this order. The information with regard to Point No. 2, 3, 5, 6, 8, 11 and 13 is available on-line on the website of the Public Authority and the appellant can download the information from the website of the Public Authority. The issues raised at point 10 and 12 are pertaining the matters between an employer and the employees and have no relation or bearing to any public interest. Such issues can not be raised under the RTI Act nor is the public authority under any obligation to provide any information thereto.

Sd/-
(Mohammad Ashraf Mir)
State Information Commissioner

(Ahmad Sajad, PA)

Copy to the:

- 1. FAA/Director Rural Development Department, Kashmir**
- 2. PIO/BDO Budgam**
- 3. Appellant—Mohammad Ali Bhat S/o M. Safdar Bhat R/o Reshipora Budgam**

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