



**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/58/2018  
Decision No. SIC/K/SA/58/2018/**54**

**Final Order**

Appellant : Sh. Ashiq Hussain Wani  
Respondents : PIO/Tehsildar, Eidgah, Srinagar  
Date of Registration : 03.04.2018  
Date of Decision : 06.07.2018

In the present case the appellant namely Sh. Ashiq Hussain Wani had filed an RTI application on 24.08.2017 with PIO/Tehsildar, Eidgah, Srinagar seeking certified copies of civil suit titled Riyaz Ahmad and others V/s Fayaz Ahmad and others and information about the next date of hearing of the above mentioned case pending before the Hon'ble High court. On failure of the PIO to provide information, the applicant filed First Appeal

with the FAA/SDM Srinagar on 16.12.2018. The said appeal was disposed of by the FAA on 13.03.2018 directing the PIO to provide information to the appellant within one days time positively. In pursuance of the said order, the PIO furnished the Photostat copy of the civil suit titled Riyaz Ahmad and others V/s Fayaz Ahmad and others to the applicant on 22.03.2018. Not satisfied with the information so provided by the PIO, the applicant filed the 2<sup>nd</sup> appeal before the Commission on 23.04.2018.

The appeal came up for hearing before the Commission today on 06.07.2018. Ms. Nuzhat Khursheed, PIO/Tehsildar Eidgah, Srinagar was present. Appellant Mr. Ashiq Hussain Wani was present along with his counsel. The appellant submitted that in response to Pt.1 of his RTI application, the PIO has furnished a photostat copy of the civil suit titled Riyaz Ahamd and others V/s Fayaz Ahmad and others. He submitted that he had asked for certified copies of the suite, as no such suit has been filed by Sh. Riyaz Ahmad nor is any such suit pending in the court of Principal District judge, Srinagar. The Photostat copy furnished by the PIO is a fake document. The appellant also submitted that no information has been provided by the PIO in respect of Point-2 of

RTI application wherein he had sought the date of next hearing of the suit in the court of law.

The PIO submitted that the applicant had sought copy of the civil suit titled Riyaz Ahamd and others V/s Fayaz Ahmad and others as was mentioned in the report submitted by the then Tehsildar, Eidgah to D.C Srinagar on 11.03.2017. He had also sought information with regard to next date of hearing in the said suit. The copy of the civil suit as mentioned in the report of the then Tehsildar has been furnished by the PIO to the appellant on 22.03.2018. The PIO also submitted that the said Photostat copy of the civil suit was furnished to the then Tehsildar by Sh. Riyaz Ahmad, non-applicant. The PIO further submitted that under the RTI Act, PIO is obliged to provide information as is available with him. The copy of the suit furnished by the non-applicant was available with the PIO and has been furnished to the appellant. As regards, the 2<sup>nd</sup> Point of the RTI application, the PIO submitted that the then Tehsildar could not have furnished information with regard to the next date of hearing of the suit in the court of law. The said information could be obtained by the appellant from the concerned court of law where the suit was alleged to be pending.

In terms of the provisions of the J&K RTI Act, 2009, the Public Authority is obliged to provide information to the information seeker as is held by, or is available with the said authority. A person can seek information only in the form and in the manner it is available with the Public Authority. The Public Authority is not obliged to collate any information or to manufacture and create the information for providing the same to the applicant. In a civil matter pending before Tehsildar Eidgah, one of the parties had claimed that the property in question was subject matter of a suit pending in the court of Principal District Judge Srinagar. He had produced a Photostat copy of the suit titled Riyaz Ahmad and others V/s Fayaz Ahmad and others, which was claimed to have been filed before the court of Principal District Judge Srinagar. While submitting a report to the D.C Srinagar, the then Tehsildar Eidgah had made a mention of this pending civil suit. The present appellant sought a copy of the civil suit from the PIO which was mentioned by him in his report to the D.C. The PIO has furnished a Photostat copy of the civil suit which was referred to in his report to D.C. Srinagar and which had been submitted by the non-applicant before him. Whether the said suit was actually filed by the non-applicant in the court of law or

whether the said document was genuine or fake, the Tehsildar could not be held responsible. He has simply furnished the information as was available with him. In case the appellant doubts the genuineness of the document, he can seek appropriate remedy against whosoever has filed such document. The PIO has furnished the information as was available with him. The certified copy of the suit can be issued only by the concerned court through proper procedure. The PIO is obliged only to furnish the document in the form and in the manner available with him to the appellant. As regards, the 2<sup>nd</sup> issue, there is merit in the argument of the PIO that the next date of hearing before the court of law can be obtained by the appellant from the concerned court and PIO cannot provide such information as the same is not available with him/her. The Commission feels that the information that could have been made available to the appellant has been made available to him in this case.

However, there has been a considerable delay in furnishing the information to the appellant. The RTI application has been filed by the appellant on 24.08.2017, the information has been provided to him on 22.03.2018. Besides, the FAA has also not disposed of the First Appeal within the specified period. The said appeal was

filed on 16.12.2017 and was disposed of by the FAA on 13.03.2018. This delay in providing the information to the appellant has been caused during the period of Mr. Qawam-ud-Din who was posed as Tehsildar Eidgah. He is therefore liable to penalty under Section-17 of the Act for not providing information within the period specified under Section 7(1) of the Act. **Registry is directed to issue a show cause notice to Mr. Qawam-ud-Din, the then Tehsildar Eidgah at his present official address by name directing him to show cause as to why penalty as envisaged under Section-17 shall not be imposed upon him. The FAA is advised to remain cautious in future and dispose of the appeals before him within the period specified under Section-16(2) of the Act.**

With the above observations and directions, the 2<sup>nd</sup> appeal filed before the Commission is disposed of.

**Sd/-**  
**(Mohammad Ashraf Mir)**  
State Information Commissioner

(Ahmad Sajad, PA)

Copy to the:

1. FAA/SDM Srinagar
2. PIO/Tehsildar, Eidgah, Srinagar

3. Mr. Qawam-ud-Din, the then Tehsildar Eidgah, Srinagar now Tehsildar, Beerwah
4. Appellant— Sh. Ashiq Hussain Wani S/o Nazir Ahmad Wani R/o Tarabal Nawakadal

**(Sheikh Fayaz Ahmad)**

Registrar

J&K State Information Commission