



**Jammu and Kashmir State**

**Information Commission**

(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/CO/SA/609/2018

Decision No. SIC/CO/SA/609/2018/1349

**Final Order:**

Appellant : Sh. Gowhar Yousef Khan, S/o Mohammad Yousef,  
R/O Baki Pora, Rafiabad, Baramulla.  
Respondent : FAA/PIO: National Cadet Corps Group, J&K.  
Date of Registration : 02-04-2018  
Date of decision : **16-07-2018.**  
Decision : Appeal disposed of.

**Brief Facts:**

The appeal has arisen out of RTI application filed by Sh. Gowhar Yousef Khan with the PIO, National Cadet Corps Group J&K on 28-12-2017 seeking information on following points:

- 1 Kindly provide list of sweeper along with authority/orders, who have been promoted to class-III including drivers and class-IV under NCC Group Headquarter, Srinagar;
- 2 Kindly provide list of class-IV employees who have been promoted to class-III direct recruitment please provide

authority orders thereof duly authenticated by the concerned department.

The PIO vide his communication dated 16-01-2018 provided the information to the applicant. Not satisfied by the reply of the PIO, the applicant filed 1<sup>st</sup> appeal with Deputy Director General, National Cadet Corps, Canal Road Jammu on 06-02-2018. The said appeal was disposed of by the FAA on 07-03-2018 by furnishing the maximum available information to the applicant. The applicant however, filed 2<sup>nd</sup> appeal before the State Information Commission on 02-04-2018.

**Proceeding before the SIC:**

The appeal came up for hearing before the State Information Commission (SIC) on 06-06-2018. The hearing was attended by Col. T. Srinivasa Roa, Deputy Group Commander NCC/PIO NCC Group Headquarters, Srinagar and his PA Mr. Shabir

Ahmad. The appellant did not attend the hearing in spite of due notice. The PIO submitted that the information has been provided to the appellant. He submitted written statement in support of his arguments which were taken on record. The hearing was adjourned in order to hear the appellant for knowing his comments.

The appeal again came up for the hearing before the SIC today on 16-07-2018. The hearing was attended by Lt. Col. B.S Taragi, officiating Deputy Group Commander, NCC Group HQ, Srinagar, Mr. Shabir Ahmad P/A to Group Commander, NCC Group Srinagar. The appellant was also present. During the hearing the respondent's reiterated their earlier stand that the requisite information has already been provided to the appellant vide their communication dated 16-01-2018 and 07-03-2018. In response, the appellant conceded to have received the said information. However, he submitted that his grievance is that on the one hand, he has

been informed that there was no rule to change the designation of sweeper/safaiwalla to chowkidar but on the other hand, vide information furnished on 07-03-2018 he has been informed that Shri Tariq Ahmad Rah, Safaiwalla has been promoted as chowkidar in 2004. He further submitted, in case Sh. Tariq Ahmad can be promoted as chowkidar, why can't he be also promoted and why was his claim rejected for promotion as chowkidar. He accordingly requested the Commission to intervene so that his promotion case is settled. The Commission, however, informed the appellant to raise this point before an appropriate forum as redressal of grievance does fall within the mandate of this Commission. Both the parties were heard and record was also perused.

**Decision:**

Keeping in view the facts of the case and the submissions made by both the parties, it is evident that requisite information as sought for by the appellant has been provided to him, which he also

conceded before the Commission during the hearing. However, so far his submission regarding his promotion as chowkidar on the analogy of Sh. Tariq Ahmad Rah is concerned, that is a grievance and does not fall within the definition of information under section 2(d) of the J&K RTI Act. With the information that Sh. Tariq Ahmad Rah has been promoted, the appellant can approach the appropriate forum for seeking justice and similar treatment, pleading discrimination. The State Information Commission has no mandate to adjudicate such issues.

The Hon'ble Supreme Court in Union of India Vs Namita Sharma (Review petition 2012) has held:

**“While deciding whether a citizen should or should not get particular information which is held by or under the control of any public authority, the Information Commission does not decide a dispute between two or more parties concerning their legal rights other than their right to get information in possession of a public authority. This function obviously is not a judicial function, but an administrative function conferred by the Act on the Information Commission.”**

If the appellant feels that he has not been treated equally while making promotions and that the department has not redressed, his grievances, he is free to approach the appropriate forum for redressal of grievances on the basis of information he has received under RTI Act.

With the above directions/observations this 2<sup>nd</sup> appeal is disposed of.

**-sd-**

(Mohammad Ashraf Mir),  
State Information Commissioner,  
J&K State Information Commission.  
\*/imi/\*

No. SIC/J/A/609/2018/3545-47

Dated: 19/07/2018

Copy to the:

- 1 First Appellate Authority (FAA) Dy. Director General, National Cadet Corps, J&K for information.
- 2 Public Information Officer (PIO) National Cadet Corps Group Hqrs, Srinagar for information.
- 3 Sh. Gowhar Yousuf Khan, S/O Sh. Mohammad Yousuf Khan R/O Baki Pora Rafiabad, Baramulla.
- 4 Guard file.

(Shiekh Fayaz Ahmad)  
Registrar,  
J&K State Information Commission.



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File No. SIC/CO/SA/586/2018  
Decision No. SIC/CO/SA/586/2018

**Final Order:**

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Appellant : Sh. Wazir Mohammad Mir,  
R/O 18-A Phase 2<sup>nd</sup> Housing Colony, Udhampur.  
Respondent : FAA/PIO: Vigilance Organization J&K.  
Date of Registration : 12-03-2018  
Date of decision : **10-07-2018.**  
Decision : Appeal disposed of.

**Brief Facts:**

The present appeal has arisen out of RTI application filed by the applicant namely Sh. Wazir Mohammad Mir with PIO/Chief Prosecuting Officer (CPO) Vigilance Organization J&K. The applicant had earlier sought information from Revenue Authorities of District Udhampur with respect to misappropriation of Government money in village Manser of Nayabat Mali Udhampur with regard to land acquisition in the said village. During an appeal filed by the applicant before the State Information Commission (SIC), Deputy

Commissioner, Udhampur and Assistant Commissioner (R) Udhampur took the plea that some of the information claimed by the applicant could not be provided to him as the revenue records pertaining to land acquisition case have been seized by the Vigilance Organization. The applicant therefore, filed present RTI application with PIO of the Vigilance Organization seeking copies of cash book and counter foils of cheque books for the years 2007 to 2011 pertaining to all amounts paid to the inhabitants of village Manser, Udhampur for the losses of their land/fields, orchards, crops and payments made on account of devaluation of land on 28-01-2018. The PIO vide his communication dated 21-02-2018 informed the applicant that the documents claimed by him have been seized by Vigilance Organization in case FIR No- 06/2013 Police Station Vigilance Organization Jammu. The said FIR is still under investigation and, therefore, the information sought by the applicant cannot be provided as the same was exempted from disclosure under section 8(1)(g) of the J&K RTI Act, 2009. The applicant thereafter filed 1<sup>st</sup> appeal with Director Prosecution J&K, Jammu on 25-02-2018. The said appeal was disposed of by the FAA on 05-03-



2018 up-holding the decision of the PIO on the ground that the disclosure of the information during investigation of the case would pre-judice the investigation. Aggrieved by the decision of the FAA, the applicant filed 2<sup>nd</sup> appeal before the State Information Commission on 12-03-2018 praying for a direction to the respondents to provide information to the applicant.

**Proceeding before the SIC/Decision:**

The appeal came up for hearing before the State Information Commission (SIC) on 16-04-2018. The hearing was attended by Mr. Mohammad Ashraf, FAA/Director Prosecution, Mr. Farooq Ahmad, PIO/Senior Prosecuting Officer Vigilance Organization J&K, and the appellant. The PIO submitted that the documents sought by the appellant have been seized by the Vigilance Organization in connection with investigation of a criminal case under various sections of J&K Prevention of Corruption, Act in FIR No- 06/2013. The said documents cannot be provided to the appellant as the case is still under investigation and disclosure of the information at this stage would pre-judicially affect the ongoing investigation. The hearing was adjourned with a direction to the

Registrar,  
J&K State Information Commission.