



**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**  
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File No. SIC/K/SA/50/2018  
Decision No. SIC/K/SA/50/2018/**43**

**FINAL ORDER**

Appellant : Sh. Ghulam Qadir Wani S/o Abdul Gaffar  
Wani R/o Ganghbugh, Srinagar

Respondent : First Appellate Authority (FAA)/Chief  
Engineer, EM&RE Wing, Kashmir

Public Information Officer (PIO) O/o Chief  
Engineer, EM&RE Wing, Kashmir

Public Information Officer (PIO)/Executive  
Engineer, Electric Sub Transmission  
Division-II, Rajbagh, Srinagar

Date of Registration : 05-04-2018

Date of Decision : 03-07-2018

**Brief Facts:**

The present appeal has arisen out of RTI application dated 15-12-2017 filed by the appellant seeking information from Public Information Officer (PIO)/Executive Engineer, Electric Sub Transmission Division-II,

Rajbagh, Srinagar with respect to academic qualification and date of birth certificate of Shri Abdul Majid Bhat S/o Shri Nabir Bhat R/o Gangbugh, Srinagar who is working as class-IV in the sub-division, copy of his engagement order as casual labourer, copy of his appointment order, attendance sheet of Shri Abdul Majid Bhat from Nov. 2017, casual leaves availed by the said employee and the stay of the incumbent at the present place of posting. The PIO furnished the information to the appellant on 19-01-2018 informing him that his office was not in a position to provide academic qualification and date of birth certificate as the said employee has been transferred to his division and not appointed in the division. However, the appellant has been informed that the academic qualification of above named employee was middle pass as per the certificate issued by the Headmaster, S.P. Middle School, Namchabal, Srinagar and his date of birth recorded in the service book was 04-10-1968. The appellant has also been informed that Mr. Abdul Majid was converted in the regular cadre in the year 2001 and that no casual leave has been availed by him with effect from Nov. 2017 upto 14-12-2017. The present place of posting was also furnished to the appellant. Not satisfied with the information, the appellant filed first appeal with the FAA/Chief Engineer, M&RE, Kashmir on 29-01-2018. Subsequently, the

appellant filed second appeal before the State Information Commission on 05-04-2018 claiming thereunder that the information provided to him by the PIO was incomplete and that the FAA has not disposed of the appeal in accordance with the provisions of the J&K RTI Act, 2009. He accordingly prayed that the FAA be directed to provide information immediately to the appellant without any further delay and that PIO be penalized for not furnishing the complete information within the specified period.

**Proceedings before the Commission:**

The appeal came up for hearing before the Commission on 04-06-2018. During the hearing, the Public Information Officer (PIO)/Executive Engineer, Electric Sub Transmission Division-II, Rajbagh, Srinagar submitted that the entire information has been provided to the appellant as was available with the PIO. However, the copy of academic qualification certificate and date of birth certificate was not provided as the same were not available with the PIO. The appellant was provided with the copy of the service book with respect to entries of date of birth of the official and also informed him that the academic qualification of the said official was Middle Pass as per the certificate issued by Headmaster, S.P. Middle School, Namchabal, Srinagar. At this stage, the

PIO O/o Chief Engineer, M&RE Wing, Kashmir was also impleaded as a party in this appeal and was directed to provide information with respect to point No. 1 relating to copies of qualification and date of birth certificates of the above named official.

The appeal again came up for hearing before the Commission today on 03-07-2017. The appellant was present in person whereas the respondents were represented by Wali Muhammad Mir, Executive Engineer, STD-II Srinagar and Mr. Irshad Ahmad, Assistant Executive Engineer/PIO O/o Chief Engineer, EM&RE Wing, Kashmir. The PIO O/o Chief Engineer, E&MRE Wing, Kashmir submitted that the official Shri Abdul Majid was basically working as a daily wager in the PDD. He was converted into regular establishment as helper vide Chief Engineer, EM&RE, Kashmir order No. 43 of 2001 dated 30-04-2001. No formal appointment orders are issued for engagement of casual labourers and no academic qualification is required for such engagements. The official whose information is sought by the appellant was working as a casual labourer/daily wager and was converted into regular establishment helper in 2001, the relevant entries have been recorded in the service book of the official and his date of birth as also been recorded in his service book as 04-10-1968 on the basis of a certificate issued by

Headmaster, S.P. Middle School, Namchabal, Srinagar under Ad No. 411 F.No. 6/A. Since the certificate issued by Headmaster, S.P. Middle School, Namchabal, Srinagar was not available in the office of PIO O/o Chief Engineer, E&MRE Wing, Kashmir, the office took up the matter with the concerned employee and asked him to submit the copy of his date of birth certificate and qualification certificate. The said employee Mr. Abdul Majid informed by filing an affidavit that his residential house was submerged in the devastated flood of September, 2014 and all his house hold goods and items including documents got washed away in the said floods. The said employee has also stated in the said affidavit that he has received the relief on account of flood damage from the concerned Tehsildar. He therefore, submitted that all his documents and certificates were washed away and are not available with him. The Public Information Officer (PIO)/Executive Engineer, Electric Sub Transmission Division-II, Rajbagh, Srinagar also filed a written statement dated 03-07-2018 stating thereunder that he had sought information with regard to the qualification and date of birth certificate of the official from the office of Chief Engineer, E&MRE Wing, Kashmir and the Chief Engineer vide his No. CE/M&RE/Adm-III/168-71/TS dated 28-06-2018 has conveyed that the said information could not be provided as the records of the office of

Chief Engineer had burnt in 2010 fire incident and left over records were damaged during floods of September, 2014.

**Decision:**

The Public Authority is under an obligation under the J&K RTI Act to provide information to an information seeker that is available with it. The PIO has provided a copy of the service book of the official which indicates the qualification and the date of birth of the official with regard to whom the appellant has sought information. It also indicates that the qualification and date of birth entries have been recorded on the basis of a certificate issued by Headmaster, S.P. Middle School, Namchabal, Srinagar. The PIO had sought the said certificates from the concerned employee also who has deposed on oath that all his belongings including the documents were washed away by September, 2014 floods. In this situation, all that could have been provided by the PIO has been provided by him to the appellant. The PIO cannot be forced to manufacture any record and then provide to the appellant. What is not available in the office of Public Authority cannot be provided by him. However, the PIO can provide a copy of the order issued by Chief Engineer under order No. 43 of 2001 dated 30-04-2001 whereunder Shri Abdul Majid has been converted into regular establishment, if serious

efforts are made in this behalf. The PIO O/o Chief Engineer, E&MRE Wing, Kashmir is accordingly directed to locate the copy of order No. 43 of 2001 dated 30-04-2001 and provide the same to the appellant within a period of two weeks from the date of receipt of this order. The PIO/ Executive Engineer, Electric Sub Transmission Division-II, Rajbagh, Srinagar is also directed to provide an authenticated copy of the first page of service book and also a copy of the affidavit filed by Mr. Abdul Majid claiming damage caused to his house hold belongings including the documents during 2014 floods within the aforesaid period.

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

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

*Typed by:*  
*Altaf Zullah,PS*

**Copy to:**

1. First Appellate Authority (FAA)/Chief Engineer, EM&RE Wing, Kashmir
2. Public Information Officer (PIO) O/o Chief Engineer, EM&RE Wing, Kashmir
3. Public Information Officer (PIO)/Executive Engineer, Electric Sub Transmission Division-II, Rajbagh, Srinagar
4. Appellant—Sh. Ghulam Qadir Wani S/o Abdul Gaffar Wani R/o Ganghbugh, Srinagar
5. Office file

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