



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

File No. SIC/J/A/74/2018

Decision No. SIC/J/A/74/2018/318

Final Order

(Second Appeal)

Appellant : Sh. Chanchal Yogi.

Respondents : First Appellate Authority (FAA)/
Additional Deputy Commissioner (ADC),
Samba and
Public Information Officer (PIO)/
Assistant Commissioner (Revenue)
[AC (R)], Samba.

Date of Registration : 25.06.2018.

Date of Decision : 24.09.2018.

Brief Facts:

The present appeal has arisen out of RTI application filed by one Sh. Chanchal Yogi with PIO/AC (R), Samba on 10.01.2018 seeking information with regard to recruitment of 03 employees viz. a Senior Assistant, a Junior Assistant and an orderly in the office of Deputy Commissioner, Samba for dealing with land acquisition cases of defence. The PIO vide his communication dated: 10.02.2018 furnished the information to the appellant. However, not satisfied with the said information, the appellant filed First Appeal with the FAA/ADC, Samba on 02.03.2018 submitting there under that though rest of the information has

been provided by the PIO but, the information with regard to engagement of one Ms. Rita Sharma in the year 2008 has not been furnished. He specifically sought copies of communication Nos. DCS/LAS/8-9/365-69 dated: 01.09.2008 and DCS/LAS/8-9/531 dated: 14.11.2008.

Proceedings:

The appeal was listed for hearing before the State Information Commission (SIC) today on 24.09.2018. FAA/ADC, Samba Sh. Arun Manhas and the appellant attended the hearing, however, the PIO/AC (R), Samba failed to attend despite advance notice.

The appellant submitted that he wanted copies of the communication dated: 01.09.2008 and 14.11.2008 in respect of engagement of Smt. Rita Sharma. The ADC, Samba/FAA submitted that the Defence Estate Officer engages staff from time to time for dealing with land acquisition/requisition matters/cases pertaining to defence. Such staff is usually posted in the O/O Deputy Commissioner concerned. The said staff is engaged by the Defence Estate Officer and is being paid from Land Acquisition Funds. Therefore, the assertion of the appellant that such persons are being engaged by the Deputy Commissioner is incorrect. The ADC, Samba also placed on record a copy of the Government of India, Ministry of Defence letter No. 1/25/MLC/501/2837/D(Lands) dated: 06th April, 1971 whereunder the Ministry of Defence has conveyed to the Director, Military Lands and Cantonments the sanction of the President of India authorizing the Deputy Directors, Military Lands and Cantonments to approve and sanction non-gazetted staff and revenue officers required by the State Governments in connection with acquisition of land for defence purposes on behalf of the

Government of India. In pursuance to the authorization given by the President of India, the Directorate of Defence Estates engages necessary non-gazetted staff from time to time for dealing with land acquisition/requisition cases for defence purposes. The ADC, Samba also placed on record a copy of communications dated: 30.03.2012, 09.07.2013 and 12.06.2013 where-under the Directorate of Defence Estates has sanctioned one post each of Senior Assistant, Junior Assistant and Orderly and also accorded sanction to the engagement of Smt. Rita Sharma as Junior Assistant. These communications make it abundantly clear that the posts are sanctioned and the candidates are engaged by the Directorate of Defence Estates and not by the concerned DCs. Such engagees are directed to work under the administrative control of the concerned DCs for dealing with defence related land acquisition/requisition cases. Therefore, the information relating to basic engagement of Smt. Rita Sharma in 2008, as sought by the appellant, may not be available with the PIO in the present case as he is not expected to hold such information. In other words, the PIO is not under any obligation to provide the information sought by the applicant in the present case. However, he may do so in case the same is available in his office records. The information essentially should be available with Defence Estate Officer concerned.

Decision:

With the above observations, the appeal is disposed of. Though there is no statutory obligation on the PIO/AC (R), Samba to provide the basic engagement order of Smt. Rita Sharma of 2008 to the appellant but he may, in order to satisfy the appellant, locate copies of

the two communications dated: 01.09.2008 and 14.11.2008 from the records maintained by him and if so found, provide copies to the appellant within a period of 02 weeks from the date of receipt of this order.

Copy of the decision be given free of cost to the parties.

Sd/-
(Mohammad Ashraf Mir)
State Information Commissioner

No: SIC/J/A/74/2018_____

Dated:

Copy to:

1. FAA/Additional Deputy Commissioner, Samba for information.
2. PIO/Assistant Commissioner (Revenue), Samba for information and necessary action.
3. Private Secretary to SIC for information of the HSIC.
4. Appellant/Sh. Chanchal Yogi, R/o. Village and P.O. Ismailpura, Tehsil Bari Brahmana, District Samba for information.
5. Office file.

(Zaheer Abbas)
Assistant Registrar
J&K State Information Commission