



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/60/2018

Decision No. SIC/J/A/60/2018/327

Final Order

(Second Appeal)

Appellant : Sh. Kashmir Singh.

Respondents : First Appellate Authority (FAA)/
Assistant Commissioner (Development)
[AC (D)], Kishtwar and
Public Information Officer (PIO)/
Block Development Officer (BDO),
Kishtwar.

Date of Registration : 13.06.2018.

Date of Decision : 18.09.2018.

Brief Facts:

This appeal has originated from the RTI application filed by the appellant Sh. Kashmir Singh on 27.10.2017 with the PIO/BDO, Kishtwar seeking information regarding mode of payment, cheque, invoice, cash payment alongwith receipt relating to Model Village and functioning of all schemes being implemented in the block, material bill form skilled, V.M.C. report, measurement book, approved annual plans, Muster Sheets under MGNREGA, SDRF, BRGF from 2011 to till date. The PIO vide his communication dated: 13.11.2017 asked the applicant (now appellant) to

deposit a sum of Rs. 62,000/- on account of photostat charges. The appellant vide his communication dated: 14.12.2017 requested the PIO to allow inspection of records to the appellant as the amount projected by the PIO was huge and has been demanded without specifying the exact number of pages of information to be supplied. Thereafter, the appellant filed First Appeal with AC (D), Kishtwar on 03.02.2018 submitting thereunder that the PIO has demanded Rs. 62,000/- as photostat charges without specifying the quantum of record or number of pages of the information to be provided to him. He also submitted that though he had provided the option of inspection of records to the PIO but there has been no positive response from the PIO with regard to the said option as well. The First Appeal was disposed of by the FAA/AC (D), Kishtwar on 13.03.2018 with a direction to the PIO to allow inspection of records by the appellant. In the said order 11th of April, 2018 was fixed as the date on which the appellant would inspect the records in the office of the PIO. Subsequently, the appellant filed Second Appeal before the SIC on 23.05.2018 (admitted on 13.06.2018) with a prayer to direct the respondents to provide requisite information, free of cost, at the earliest.

Proceedings:

The appeal came up for hearing before this Commission today on 18.09.2018. Sh. Anil Chandel, FAA/AC (D), Kishtwar, Sh. Arun Badyal, PIO/BDO, Kishtwar and the appellant were scheduled to be heard through Video Conferencing from NIC, Doda. However, due to technical hitch in the internet access, they were heard through voice call. The appellant

reiterated his submissions made in the First Appeal as well as in the Second Appeal that the PIO/BDO, Kishtwar has demanded a sum of Rs. 62,000/- without specifying the number of pages of information to be furnished by him. He accordingly requested the PIO to provide an opportunity of inspection of records, which was not provided by the PIO. The FAA/AC (D), Kishtwar submitted that the demand made by the PIO for deposition of Rs. 60,000/- as photocopying charges was not reasonable. He accordingly directed the PIO to allow inspection of records while disposing of the First Appeal filed by the appellant. Keeping in view the voluminous information sought by the appellant from 2011 onwards in respect of all schemes being implemented in the block, the FAA also submitted that during the hearing of the First Appeal itself he fixed 11.04.2018 as the date for inspection of records in presence of the appellant as well as the PIO. The PIO submitted that he has joined in May, 2018 and is not aware as to how the then PIO has calculated Rs. 62,000/- as the photocopying charges. He, however, submitted that the appellant did not avail the opportunity of inspection of records on the date fixed by the FAA. Again on 12.09.2018, he requested the appellant to have inspection of records on 15.09.2018, but the appellant did not avail this opportunity as well.

The appellant submitted that he did not receive the order of the FAA dated: 13.03.2018 fixing 11.04.2018 as date for inspection nor did he receive the communication of PIO dated: 12.09.2018 fixing 15.09.2018 as the date of inspection of records.

Though the information sought by the appellant is very huge and voluminous, but the then PIO had not specified as to how he calculated Rs. 62,000/- as photocopying charges. The demand, on the face of it, looks unreasonable and perhaps an attempt on the part of the then PIO to dissuade the appellant from seeking information. The FAA had rightly disposed of the First Appeal filed by the appellant with a direction to the PIO to allow inspection of records. In fact, he had fixed a date for inspection of records in presence of both the appellant as well as the PIO. The appellant should have availed the opportunity of inspection of records. He was given another opportunity by the present PIO which too has not been availed by the appellant. Though certain PIOs are not comfortable with openness and transparency and do not want to disclose information to the information seekers but the information seekers too provide them an excuse for delaying or denying information by asking for huge and voluminous records. The public authority is not expected to confine itself to the job of photocopying large volumes of information sought by an RTI applicant at the cost of other normal functioning and duties towards the general public. The right to information is not absolute. There are certain reasonable restrictions contained in the Act itself. A right of one person stops at a point where it affects the right of others. It is for this reason that the preamble of the Right to Information Act, 2009 provides for harmonizing the conflicting interests of providing access to information to every citizen on the one hand and preserving other public interests including efficient operations of the Government, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive

information, on the other hand. Section 2(i) of the J&K RTI Act, 2009 has defined the "right to information" as including the right to inspect documents and records and take notes and extracts of the records. Sub-section (9) of Section (7) also provides that information shall ordinarily be provided in the form it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety and preservation of the records. In situations where providing of copies of the records would disproportionately divert the resources of the public authority, the PIO would be well within his rights to request the information seekers to have inspection of records instead of seeking copies of such records. In the present case, the information sought was huge and voluminous. In fact, the appellant had himself vide his communication dated: 14.12.2017 requested for allowing the opportunity of inspection of records. The FAA had also issued directions for inspection of records and provided an opportunity to the appellant for availing the said facility. Though the appellant has not availed the opportunity of inspection of records till date but he has agreed to do the same provided whatever information he finds to be relevant should be provided by the PIO after such inspection.

Decision:

After hearing the parties, the appeal is disposed of. The PIO is directed to fix a mutually convenient date with the appellant and facilitate inspection of records by providing access to all the relevant records sought by the appellant through his RTI request. In case after having inspection, the appellant seeks copies of

certain documents/records, the same shall be provided by the PIO on payment of requisite charges, provided the appellant seeks reasonable amount of information.

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

Sd/-
(Mohammad Ashraf Mir)
State Information Commissioner

No: SIC/J/A/60/2018_____

Dated:

Copy to:

1. FAA/Assistant Commissioner (Development), Kishtwar for information.
2. PIO/Block Development Officer, Kishtwar for information and necessary action.
3. Private Secretary to SIC for information of the HSIC.
4. Appellant/Sh. Kashmir Singh, S/o. Sh. Tek Chand, R/o. Matta Kishtwar, Tehsil and District Kishtwar for information.
5. Office file.

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