



Jammu and Kashmir State Information Commission

شنیشن کمیٹی انفارمیری اسٹیٹ کاشمیر
(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/CO/SA/464/2017

Decision No. SIC/CO/SA/464/2017/986

Final Order

(2nd Appeal)

Appellant : Sh. Avinash Razdan.
Respondent : First Appellate Authority (FAA)/
Public Information Officer (PIO), J&K High Court.
Date of Registration : 28.04.2017.
Date of Decision : 28.08.2017.

Brief Facts:

Briefly, the facts of this case are that the appellant Sh. Avinash Razdan while exercising his Right to Information under the J&K RTI Act, 2009 filed an RTI application dated: 14.01.2017 before the PIO, J&K High Court seeking information on as many as 38 points relating to Summon and Warrant cases of the year 2015 and of the year 2016 from 1st January, 2016 to 30th September 2016 of District Courts, Jammu.

The Assistant Public Information Officer (APIO), J&K High Court, Jammu transferred his RTI application to Principal District & Session Judge, Jammu/Public Information Officer (PIO) under section 6(3) of the J&K RTI Act, 2009 on 19.01.2017 for providing the information to the appellant.

After the appellant did not get any response from the PIO within the stipulated period, he filed First Appeal with the First Appellate Authority

(FAA)/Registrar General, J&K High Court on 13.03.2017 against the inaction of the PIO. When the FAA too failed to dispose of his First Appeal within the prescribed time, appellant filed 2nd appeal with the State Information Commission (SIC) which was received in the SIC on 28.04.2017.

Proceedings:

This 2nd appeal was filed in the SIC on 28.04.2017, but with a view to hear all the parties and for appropriate final disposal of the appeal, the time period for disposal was extended by another 60 days upto a maximum of 120 days from the date of filing of the appeal in terms of section 16(11) of the J&K RTI Act, 2009.

The case came up for hearing before the SIC on 03.07.2017. The hearing was attended by Sh. Sufi Manzoor on behalf of the FAA and Sh. Avinash Razdan, appellant. Sh. Diwakar Sharma counsel for J&K High Court, Jammu wing, was heard through Video Conferencing/voice calling from Jammu office of the Commission.

Sh. Sufi Manzoor submitted that FAA has passed order in the First Appeal. On perusal, it was noticed that the FAA has passed order after the stipulated time period provided under the Act to the FAA. The SIC sought response of the respondents in this regard. However, respondents submitted that they may be given more time for filing a written statement in the case. The respondents were given 10 days for filing the written statement and the hearing was adjourned.

The hearing was again held in the case on 08.08.2017 which was this time attended by Sh. N.A. Beigh, counsel for the respondents. The appellant was heard through Video Conferencing from Jammu office of the Commission. The appellant submitted that the directions of the Commission dated: 03.07.2017 have not been complied with by the PIO, J&K High

Court. The counsel for the respondents sought more time to enable him to go through the records and file written statement in the case.

The plea of the counsel was accepted and case adjourned with directions to the PIO, J&K High Court to file written statement/reply within 10 days with copy to the appellant.

On 28.08.2017, Sh. Sufi Manzoor attended the SIC office, however, reply to the 2nd appeal was not filed by the respondents.

The SIC heard the parties during various hearings and also perused the record.

Decision:

This 2nd appeal has raised important issues which deserves serious consideration. The issues find mention in the disposal of the First Appeal by the First Appellate Authority/Registrar General namely, the voluminous nature of information sought and the need or utility of such and so much information for the appellant. The FAA has highlighted the possibility of misuse of section 6(2) of the J&K RTI Act, 2009 which does not make it incumbent on the information seeker to disclose the purpose of information.

As regards the first issue i.e. voluminous nature of information being sought, the FAA has rightly observed that the information sought by the information seeker is so voluminous that it will take months together (more than the stipulated period) to collect and compile even if it is available in the records. As per the order of the FAA, Courts in Jammu district have reported to the PIO/Principal District and Sessions Judge that they do not maintain the type of information sought by the RTI applicant (now appellant) and, therefore, cannot provide the information sought for. The FAA has, therefore, rightly observed that the PIO has not been able to

provide the requisite information as the same is not maintained and, therefore, not available.

The SIC would, however, like to invite the attention of the PIO and the FAA to the provisions of section 7(1) and section 4 of the J&K RTI Act, 2009. Section 7(1) stipulates that the PIO should dispose of the RTI application within 30 days of filing of the said application. There is nothing on record to indicate that the PIO has replied to the applicant within 30 days informing him of non-availability of information, or rejected his request for information or offered him to inspect whatever record was available, in terms of section 2(i)(i).

Inspection of records in the event of voluminous nature of information is a perfectly right option which can be offered to the information seeker. It appears that the PIO has not considered this option in view of the response from different courts in Jammu district which stated that they were not maintaining this type of information.

Two things, therefore, follow:

1. PIO to take note of section 7(1) in particular and other functions and duties prescribed in section 5, 6 and 7 which deal with the process and procedure to be followed by the PIO.
2. The Sessions and District Court may like to review implementation of section 4 of the J&K RTI Act (suo moto disclosure) in the District courts so that the information is appropriately maintained. When information is maintained in a systematic manner, access and retrieval becomes easy. In fact, implementation of section 4 needs attention at the higher levels by all the competent authorities mentioned at section 2(f) of the J&K RTI Act, 2009.

FAA's observations contained in the order are unexceptionable and need to be worked upon to make the implementation of the RTI Act useful to the society and general public.

This appeal is, therefore, disposed of with the directions that PIO shall offer inspection of the available records pertaining to information sought within a period of one month from the date of receipt of this order in terms of the J&K RTI Act, 2009 subject to the provisions of the Act, section 8 (exemptions) and also subject to the Rules framed by the competent authority i.e. Chief Justice of J&K High Court.

The appeal is accordingly disposed of.

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

-sd-

(Khurshid A. Ganai) *IAS Retd.*,
Chief Information Commissioner.
JK State Information Commission.
/imi/

No: SIC/CO/SA/464/2017

Dated: /09/2017.

Copy to the:

1. First Appellate Authority (FAA), J&K High Court, Srinagar for information.
2. Public Information Officer (PIO), J&K High Court, Srinagar, for information.
3. District & Session Court, Jammu for compliance.
4. PS to CIC for information of HCIC.
5. Sh. Avinash Razdan R/o 783, Subash Nagar, Jammu for information.
6. Guard file.

(Sheikh Fayaz Ahmad)
Registrar,
JK State Information Commission