



**Jammu and Kashmir State Information Commission**

(Constituted under the Right to Information Act, 2009)

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**Old Assembly Complex, Srinagar, 0194-2506660, 2506661**

[www.jksic.nic.in](http://www.jksic.nic.in)

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File No. SIC/J/A/239/2018

Decision No. SIC/J/A/139/2018/**259**

**Final Order:**

Appellant : Sh. Ravi Kant Aggarwal,  
R/O 473 Nitco Lane, Tala Tillo, Jammu.

Respondent : FAA/PIO, GMC.

Date of Registration : 07-03-2018

Date of decision : **25-06-2018.**

Decision : Appeal disposed of.

**Brief Facts:**

This present appeal has arisen out of an RTI application filed by Sh. Ravi Kant R/o Nitco Lane, Talab Tillo, Jammu on 07-12-2017 with PIO, Government Medical College (GMC) Jammu seeking following information:

1. Furnish me the list of candidates along with their name who applied for the post of Associate Professor in P&SM Department GMC, Jammu vide above mentioned Notification.

(Notification No: GMC/E Stt/GD/SRO-384/24 dated 10-04-2017)

2. Furnish me the name of the candidates who are short listed for interview for the post of Associate Professor in P&SM Department GMC, Jammu.
3. Furnish me the copy of selection list and name of the candidates who are selected for the post of Associate Professor in P&SM Department GMC, Jammu.
4. Furnish me the list of the candidates who are found eligible for the above said post alongwith their name and valid reason for their ineligibility will be provided to me.
5. Furnish me the copy of the noting of all selection committee members regarding all interview candidates for the post of Associate Professor P&SM Department in GMC, Jammu.

Since no information was furnished to him by the PIO, the applicant filed 1<sup>st</sup> appeal with FAA/Principal, GMC on 06-01-2018. The 1<sup>st</sup> appeal was not disposed of by the FAA within the statutory period of disposal of the appeal and therefore, the applicant filed a 2<sup>nd</sup> appeal before the State Information

Commission (SIC) on 28-02-2018 with the prayer that complete information be provided to him.

**Proceeding before the SIC:**

The appeal came up for hearing before the State Information Commission (SIC) on 05-04-2018. The appellant was present in person while as nobody appeared on behalf of the respondents inspite of the notice issued by the Commission. The appellant submitted that the Principal, GMC, Jammu vide notification dated 10-04-2017 advertised the posts of Associate Professor and Lecturer in P&SM Department of GMC, Jammu on academic arrangement basis. The appellant's wife namely Dr. Bhavna Sahni applied for the post of Associate Professor. The appellant further submitted that being eligible and possessing the required qualifications, Dr. Bhavna Sahni was interviewed by the interview panel constituted by Health and Medical Education Department. Being the only candidate who had applied for the post of Associate Professor in P&SM Department, the interview committee communicated to her at the end of the interview that she has been selected. However, when the selection list was

published by GMC, the name of the wife of the appellant was not figuring in the list of selected candidates. Thereafter, the appellant filed the RTI application seeking details about the selection process. The appellant further stated that the award sheet prepared by the members of the interview panel have been subsequently changed at the behest of Commissioner/Secretary to Government, Health & Medical Education Department by Principal, GMC Jammu and Dr. Bhavna Sahni has been declared in-eligible. The appellant accordingly sought copies of award sheets prepared by the members of the interview panel immediately after conducting the interview.

Since nobody was present during the hearing on behalf of the respondents, the appeal was adjourned with a direction to the PIO to furnish information to the appellant as sought by him through his RTI application.

The appeal was again listed for the hearing before the SIC on 16-04-2018. The hearing was attended by Dr. Vishal Tandon, Registrar Academic on behalf of PIO, GMC, Mr. Narinder Singh, S.O, GMC and the appellant Mr. Ravi Kant Aggarwal. The

representative of the PIO submitted that in response to the RTI application dated 07-12-2017, the PIO sent the information to the appellant on 21-12-2017, through speed post. However, the envelope containing the information was received back as undelivered on 15-01-2018. A copy of the said information was however, handed over by the PIO to the appellant during the hearing. In the said information, the appellant has been informed that the wife of the appellant Dr. Bhavna Sahni was the only candidate who had applied for the post of Associate Professor and she was shortlisted for interview subject to eligibility. The appellant has also been informed that the candidature of Dr. Bhavna Sahni was finally rejected for want of mandatory two year Demonstratorship. Copies of Pre-merit for the Department of P&SM prepared by Administrative Wing of GMC, copy of selection list for P&SM and a copy of award roll for the post of Associate Professor was also furnished to the appellant. After going through the information provided by the PIO, the appellant submitted that the information provided does not contain the noting of selection committee with regard to the interview of Dr, Bhavna Sahni. The

PIO, however, submitted that though Dr. Bhavna Sahni was tentatively shortlisted for interview and called for the same but she was eventually not interviewed by the interview panel because of deficiency in her eligibility. When the pre-merit note prepared by the Administrative Wing of GMC was placed before the interview panel, the panel did not interview Dr. Bhavna Sahni. The hearing in the appeal was adjourned with a direction to the PIO to explain how Dr. Bhavna Sahni was ineligible for the post of Associate Professor in P&SM Department when she possessed all the qualifications and experience as mentioned in the advertisement notice and also to furnish individual award sheets prepared and signed by all the four members of the interview panel.

The appeal again came up for the hearing before the Commission on 22-05-2018. Mr. Narinder Singh Jamwal, S.O GMC represented the PIO during the hearing while the appellant was present in person. In pursuance to the directions given by the Commission on 16-04-2018, the PIO filed a written statement indicating that the appellant was not considered for selection on account of her ineligibility for want of two year's Demonstratorship.

It has also been submitted that the expert and concerned HOD were of contrary opinion regarding the eligibility of Dr. Bhavna Sahni during the interview and they awarded marks on the award/marks sheet. However, Commissioner/Secretary, H&ME, being the Chairman of the Committee alongwith Principal GMC took the final call declaring Dr. Bhawna Sahni as not eligible. The PIO also provided a copy of the award sheet signed by Dr. Dinesh Kumar, HOD Medicine and also the award sheet signed by the Expert, Dr. V.K Bhan of ASCOMS Hospital. In his award sheet, the Expert Dr. V.K Bhan has awarded **8** marks out of 10 to Dr. Bhavna Sahni and declared her selected in the remarks column of the award. In the award sheet of Dr. Dinesh Kumar, there appeared some interpolations/over-writting. It appeared that Dr. Dinesh Kumar had awarded **7** marks out of 10 to Dr. Bhavna Sahni but there were some insertions in the marks column with of letter '**N.E**'. In the remarks column also, the letters '**N.E**' appeared to have been inserted. However, the PIO did not produce the award sheets prepared and signed by other two members of the interview panel namely, Commissioner/Secretary to Government H&ME and

Principal GMC. Since the interpolations/insertions in the award sheet of Dr. Dinesh Kumar had made the award sheet doubtful, the PIO was directed to produce original record/award sheets prepared and signed individually by each member of the selection panel in respect of the interview of Dr. Bhavna Sahni held on 21-04-2017.

The appeal finally came up for hearing before the SIC today on 25-06-2018. The representative of the PIO and the appellant were present during the hearing. In pursuance to the last directions given by the Commission, the representative of the PIO produced the award sheets prepared and signed individually by Dr. V.K Bhan and Dr. Dinesh Kumar and also an award sheet signed jointly by Commissioner/Secretary, H&ME and Principal GMC Jammu. The Expert Dr. V.K Bhan has clearly declared Dr. Bhavna Sahni 'Select' with '8' marks in the remarks column of the award sheet for P&SM Department. The marking has been made with pencil. In the award sheet signed by Dr. Dinesh Kumar, Professor & Head Community Medicine, GMC Jammu, he has awarded '7/10' in the marks column with ball point pen besides having signed the award sheet with ball point pen. However, the letters 'N.E' appear



in pencil markings both in the marks column as well as in the remarks column. No individual award sheets signed by Commissioner/Secretary H&ME and Principal GMC Jammu were produced. Instead, award sheet signed jointly by chairman selection committee and Principal, GMC was produced which declares Dr. Bhavna Sahni as not eligible in 'Basic Merit', 'Total viva-voice' 'Total result' and 'Remarks' columns of the sheet.

In response to the question as to how the candidature of Dr. Bhavna Sahni could be rejected on the ground of not having experience of two year's Demonstratorship when the advertisement notice did not prescribe any such qualification/experience, the representative of the PIO submitted that though two year's Demonstratorship was not required for the post of Associate Professor but the same was a requisite qualification for the post of Lecturer, which subsequently makes one eligible for appointment as Assistant Professor and thereafter as Associate Professor. Since Dr. Bhavna Sahni was not eligible for appointment as Lecturer for want of two year's experience as Demonstrator, she could not be considered for higher post of Associate Professor. However, the

respondents could not offer any answer to the question raised by the Commission that in case Dr. Bhavna Sahni was not eligible for appointment as Lecturer and thereby not eligible for the post of Assistant Professor and Associate Professor, how does she continue to work as Assistant Professor since 2015 in GMC.

The appellant submitted that the qualification prescribed for the post of Associate Professor in the advertisement notice was MD/MS/DNB in the concerned subject and experience of having worked as Assistant Professor for a period of two years with two research publications indexed in National Journals. The appellant further submitted that his wife Dr. Bhavna Sahni possessed the qualification in the concerned subject with having the experience of working as Assistant Professor of more than two years and 10 research publications indexed in National/international Journals. He further submitted that Dr. Bhavna Sahni has been directly appointed as Assistant Professor on 14-12-2015 in GMC as she possessed the prescribed qualification required for the said post. He also submitted that there was no requirement of experience as Demonstrator in the MCI guidelines. The appellant also contended

that the interview panel could not insist on the experience as demonstrator when such condition was not prescribed in the advertisement notice.

Interestingly, Dr. Dinesh Kumar, Professor and Head, PG Department of Community Medicine, GMC, Jammu also filed a written statement before the Commission dated 22-06-2018 even though he was not asked by the Commission to file any statement nor was he a party in the appeal. Dr. Dinesh was one of the members of the interview panel, whose award sheet appeared to have been tampered with. In his written statement, Dr. Dinesh has alleged that his award roll has been tampered with. His statement is summarized as under:

- i. that there was no dispute amongst the members of the interview panel regarding eligibility of Dr. Bhavna Sahni as her eligibility was confirmed by Dr. Vishal Tandon, Academic Registrar to the Principal GMC in front of all the penal members before interview process started;**
- ii. that her interview was duly conducted and she was unanimously selected by the interview panel as she was the only candidate to have appeared for the two vacant posts of Associate Professor;**
- iii. that the copy of award roll submitted by the PIO before the Commission clearly shows tampering with seven marks that he**

**had awarded after the interview of Dr. Bhavna Sahni. Further, there was no question of putting 'N.E' in the remarks column when she was unanimously selected. The letters 'N.E' in the remarks column have been illegally inserted by someone else for reasons best known to him; and**

- iv. that insertions made in his award roll need to be thoroughly investigated as it is a case of tampering with official records and misleading the Commission with a wrong factual report which points a picture completely contrary to the truth.**

The appellant submitted that the statement of the Head Department of Community Medicine and one of the members of the interview panel prove beyond any reasonable doubt that the original award sheets prepared and signed at the time of interview have been changed/tampered with in order to deny appointment to his wife as Associate Professor even though she was eligible possessing the prescribed qualifications and the only candidate to have applied for the post. He also submitted that Commissioner/Secretary, H&ME and the Principal, GMC Jammu had also signed separate award sheets at the time of interview like the other two members of the interview panel but the same disappeared subsequently and were replaced by a pre-merit sheet jointly signed by Commissioner/Secretary H&ME and the Principal, GMC Jammu which cannot be treated as award sheet. However, the PIO refuted the

allegation of changing the award sheet and asserted that the Chairman of interview panel and the Principal signed the award roll jointly, which has been produced before the Commission in original.

**Decision:**

The documents produced before the State Information Commission, especially the award roll of DR. Dinesh Kumar, Professor and Head PG Department of Community Medicine, GMC Jammu, suggest at least one thing that the interview records of Dr. Bhavna Sahni have been tampered with by one or other party to the dispute. The figure '7/0' in the award sheet of Dr. Dinesh Kumar has been marked with ball point pen while the letters 'N.E' have been marked with pencil. Dr. Dinesh has signed the award roll with ball point pen. However, it is not clear whether figure '7/10' has been inserted/over-written on the letters 'N.E' or the letters 'N.E' have been inserted/over-written on the figure '7/10'. What has been over-written on what and who actually has made insertions can be ascertained by an expert body only after a through investigation. While the appellant and the author of the award roll, Dr. Dinesh

Kumar allege that the letters 'N.E' have been inserted by some one else subsequently, the PIO of GMC suggested otherwise. According to him, Dr. Dinesh Kumar is in league with the appellant and he inserted the marks '7/10' subsequently after having declared Dr. Bhavna not eligible initially. The State Information Commission is neither skilled to investigate and enquire into a case of tampering of records nor is it within its domain to do so in terms of the provisions of J&K Right to Information Act, 2009. Such issues are beyond the scope and jurisdiction of the Commission in terms of the RTI Law.

As regards the eligibility of the wife of the appellant for selection/appointment to the post of Associate Professor, the qualification and experience prescribed in the notification dated 10-04-2017 inviting applications from eligible candidates for the Post of Associate professor was 'MD/MS/DNB in the concerned subject and having worked as Assistant Professor for a period of two years in the concerned discipline with two research publications indexed in national journals'. By the own admission of the respondents, Dr. Bhavna Sahni possessed the required qualification with more than two years experience as Assistant Professor and 10 research

publications, besides being the only candidate to have applied for the post and short listed for interview. The argument of the PIO that the lack of experience of two years Demonstratorship made Dr. Bhavna Sahni ineligible for the post of Associate Professor even though the same was not prescribed in the advertisement notice is questionable and contentions. Two years experience as Demonstrator is a requirement for the post of Lecturer only. This is not even the requirement for the post of Assistant Professor. Dr. Bhavna Sahni has been appointed directly as Assistant Professor in December, 2015 by GMC, Jammu. The question of her lack of experience as Demonstrator was not raised at the time of her appointment as Assistant Professor. The eligibility or otherwise of Dr. Bhavna Sahni and insistence of the public authority on the requirement of two years experience as Demonstrator for the post of Assistant Professor when no such experience was prescribed in the advertisement notice and also the question whether an appointing authority could at all insist on some qualification which was not prescribed in the notification inviting applications for a particular post are issues of interpretation of the rules of service

jurisprudence, which too is beyond the scope of State Information Commission (SIC). Only the courts of competent jurisdiction are empowered to interpret law and the rules and adjudicate upon issues of entitlements and eligibility. The SIC cannot assume to itself such powers and jurisdiction. In fact the appellant's wife has challenged her non-selection by way of a writ petition in the Hon'ble High Court and therefore, the legality of the action of the public authority in rejecting the candidature of the petitioner for lack of experience as Demonstrator would be legally tested and decided by the Hon'ble High Court. Therefore, the Commission refrains from expressing any opinion or making any observation on this issue.

As per the scheme of the J&K Right to Information Act, 2009, the State Information Commission is empowered to secure and ensure access to information to the residents of the State in order to promote transparency and accountability in the working of every public authority. That purpose has been achieved in the present case. The appellant sought certain information about the selection process, particularly copies of award sheets prepared and signed by the members of interview panel for selection to the post of Associate Professor, P&SM Department of GMC, Jammu. The said information has been extracted from the public authority, though not without some of insistence and persuasion by the State



Information Commission and made available to the appellant. The appellant can now approach the appropriate court, agency or authority for seeking redressal of her grievances and appropriate remedy on the basis of record/documents obtained by him under the Right to Information Act. The State Information Commission is not the right forum for adjudicating upon the issues of entitlements, demands, grievances or issues relating to service matters including interpretation of rules or for that matter enquiring into allegations of any wrong doing, mischief, delinquency or misconduct.

Since the entire information sought for by the appellant through his RTI application has been provided to him, nothing further survives for the Commission to adjudicate upon in this appeal.

With the above observations, the appeal is disposed of.

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(Mohammad Ashraf Mir),  
State Information Commissioner,  
J&K State Information Commission.  
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No. SIC/J/A/239/2018

Dated: / /2018.

Copy to the:

- 1 First Appellate Authority (FAA) Principal, GMC Jammu for information.
- 2 Public Information Officer (PIO) O/O Principal, GMC, Jammu for information.
- 3 Sh. Ravi Kant Aggarwal, R/O 473, Nitco Lane, Tallab Tillo, Jammu.
- 4 Guard file.

(Baldev Raj)  
Joint Registrar,  
J&K State Information Commission.