

PIO has failed to provide information to him till filing of Appeal and necessary information be provided to him without further loss of time. Chief Conservator of Forests vide his letter dated 02.05.2014 has advised PIO/DFO Bijbehara to look into the matter and dispose off the Appeal of the RTI applicant in terms of provisions of Jammu and Kashmir Right to Information Act 2009 and Rules of 2012.

Consequently, PIO/DFO Bijbehara vide letter 10.05.2014 has responded to the queries of the RTI application. Not satisfied with the response of the PIO, the appellant filed Second Appeal before the Commission on 24.06.2014 stating that he received the response of the PIO dated 10.05.2014 on 15.05.2014 and that the information so provided is not based on facts. He has further alleged that information provided is in haphazard manner and reply to queries have not been made/provided as per the sequences and is misleading. The appellant has requested the Commission to call for the records where from the information has been collected and ask the PIO/DFO to come with factual information for the queries raised in PIL in order to uphold the spirit of RTI Act.

In response to the notice of the Commission, PIO/DFO Bijbehara vide letter 21.07.2014 has again responded to the queries of the RTI application. PIO has submitted that the reply stands already provided to the applicant vide his office No. RTI/Estt/14-15/190-92 dated 10.05.2014. PIO in response to query (6) seeking details of posting has invoked Section 8 of the RTI Act, 2009 stating that information sought is personal, which has no relationship to any public activity or interest. In response to query (7), PIO has stated that necessary entries have been made in the Service Book.

The Commission has observed that in the RTI application, appellant has not given any details of his residence or telephone number on which PIO could have contacted him or information sent to him. Therefore, there is basic infirmity in the RTI application viz-a-viz Section 6(2) of the J&K RTI Act, 2009 with no contact details and PIO would not have been in a position to send the information, even if available with him.

The queries made in the annexure to the RTI application reveal that except for query (6), all other queries are questions in nature i.e. whether, what, how, why etc. In this connection attention of the information seeker is drawn to the decision of Hon'ble Bombay High Court passed in the case titled Dr. Celsa Pinto Vs Goa State Information Commission (writ petition No. 4/9 of 2007 dated 3.4.2008) that the term "information" as defined in the Right to Information Act does not include answers to the questions like 'why'. The relevant part of the judgment is reproduced below:

"The definition of information cannot include within its fold answers to the question "why" which would be same thing as asking the reason for a justification for a particular thing. The public information authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information".

As per Section 2(i) of the J&K RTI Act 2009, Right to Information means the information which is held by or under the control of Public Authority includes the right, to inspect work, documents, records and taking certified copies of documents/records. Thus answer to questions, opinions does not fall within the definition of RTI Act.

Further in the case titled CBSE v/s Aditya Bandopadhyay the Hon'ble Supreme Court at para 35 has observed ".....But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of The public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as

a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act. “

Upon perusal of the records and response of the PIO, it is held that in para (6) of the RTI application, information seeker has sought details of posting of officials. This information being in public domain cannot be said to be falling under exemption clause. Therefore PIO is directed to provide details of posting as asked for by the information seeker as per records. With regard to entries of suspension order, PIO has admitted that necessary entries have been made in the Service Book. PIO is directed to provided relevant extracts to the information seeker within 2 weeks.

Rest of the queries are either in the form of questions or opinions which is outside the purview of RTI Act as clarified hereinabove.

With the above directions, appeal is disposed of.

Sd/-
(Nazir Ahmed)
State Information Commissioner

Copy to the:-

1. Conservator of Forests, South Circle, Bijbehara (First Appellate Authority).
2. PIO/Divisional Forest Officer, Lidder Forest Division, Bijbehara.
3. Sh. Sharief Ali Noori, Senior Citizen H. No. 15, Fair Banks Colony, Rawalpora, Srinagar.

(G.Q. Bhat)
Registrar,
State Information Commission