



**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. 0194-2484269, 2484262**  
www.jksic.nic.in  
\*\*\*\*\*

File No. SIC-K/Comp/33/2013  
Decision No. SIC-K/Comp/33/2013/112

Title: Mst Nasreen **v/s** ACR Srinagar  
d/o Rahmat Ali Khan Tehsildar North Srinagar  
r/o Habba Kadal Srinagar **(Respondents)**  
**(Complainant)**

Present:

1. Shri Ghulam Jeelani Zargar, ACR Srinagar.
2. Sh. Shafiq Ahmad Wafai, Tehsildar North Sgr.

**Srinagar**

**20.12.2013**

The Commission received Second Appeal on 11.10.2013 from Mst Nasreen d/o Rahmat Ali Khan r/o Baba Pora Habba Kadal Srinagar against Tehsildar North Srinagar for deemed refusal of response to her application seeking deletion of condition 'ST certificate is valid till marriage' from her ST certificate although she appended all govt. circulars, letter and

clarification order that when a ST category woman gets married with Non-ST category person she cannot lose her ST category rights. Thereafter she filed First Appeal before FAA/ACR Srinagar on 17.08.2013 but no appropriate information has been provided till date of filing of Second Appeal. The appellant has requested the Commission that concerned be directed to provide her the information at an earliest to avoid more perplexity.

Records enclosed with the appeal reveal that an RTI application has been filed by the appellant before Tehsildar North Srinagar on 24.07.2013 seeking following information: -

**“Clarification of Scheduled Tribe certificate. Status of S.T. woman after marriage with non-ST person, regarding entitlement of benefit for S.T. reservation. Submitted application on 28.01.2013 for same purpose”.**

This application has been responded to by the PIO/Tehsildar North Srinagar on 05.08.2013 as under:-

**“The information sought by you does not fall within the ambit of Right to Information Act, 2009”.**

Aggrieved by the order of the PIO, the appellant filed an appeal before First Appellate Authority (FAA)/Assistant Commissioner Revenue Srinagar on 17.08.2013 through Registered Post, which as per records has not been adjudicated upon by the FAA.

During proceedings on 03.12.2013 Mrs. Nusrat Aziz submitted that in response to the notice of the Commission dated 28.10.2013, she examined the contents of the Second Appeal and on the basis of facts and records pertaining to the status of ladies belonging to ST category after marriage with non-ST person, she issued modified ST category certificate vide No. 380/Tabc/TNS dated 28.11.2013 as under: -

**“The ST certificate with the condition ‘valid till marriage only’ will not apply in this case and is valid without this bar from the date of its issuance. As per circular issued by the Ministry of Home Affairs vide circular letter No. 35/1/72-R4 dated 02.05.1975”.**

The appellant consequently vide communication dated 29.11.2013 expressed her gratitude to the Commission by submitting that her genuine grievances regarding clarification of

her ST category certificate was addressed by Tehsildar North Srinagar and that she is satisfied with the response of the Tehsildar and that she withdraws her application.

In response to the notice of the Commission, Shri Ghulam Jeelani Zargar, ACR Srinagar (FAA) vide explanation dated 12.12.2013 submitted that in the above referred case guidance was sought by Tehsildar on 24.04.2013 and he has passed instructions to Tehsildar North Srinagar vide letter no. 522 dated 13.06.2013 to proceed in the matter strictly under rules.

Regarding non-appearance on 03.12.2013, ACR Srinagar submitted his explanation dated 12.12.2013 stating that he could not attend the Commission on the date of hearing because of law and order problem and that the grievance of the appellant was resolved by then.

After perusal of records it is evident that the grievance of the appellant have been redressed through medium of RTI, yet the Commission has observed with dismay that the order passed

by the PIO(the then Tehsildar North Srinagar dated 05.08.2013) is cryptic and without reasons.

Section 7 of the J&K RTI Act provides that PIO is required to dispose of the RTI application within prescribed period either by providing information on payment of such fee or reject the request for any of the reasons specified in section 8 and 9. It is clear from the content of information required that she has sought status of her application dated 28.01.2013 seeking clarification of status of ST Woman after marriage. The PIO instead of providing information regarding subject matter of application, has concluded that information sought does not fall within ambit of RTI Act without substantiating his decision. Besides, the then Tehsildar North Srinagar ought to have gone through the notification/circular of Government of India governing status of ST Women after marriage. Enclosed with application on the subject-SC/ST Definition Section 2.1(vii) of which read as under:-

**An SC/ST person would continue to be an SC/ST person even after marriage to a non SC/ST person.**

Therefore order passed by the then Tehsildar North Srinagar is not in accordance with the provisions of the Act as information sought neither falls under exemption clauses 8 and 9 nor the PIO has assigned any cogent reasons to justify his decision.

It is an irony that the certificate issuing authorities appear to be ignorant of the rules/notification governing issue of such certificates- as this certificate issued in 2001 is not in accordance with notification of 1975.

Accordingly Registry to issue show cause notice to Shri Bashir Ahmad Rather, the then Tehsildar as to why action shall not be taken against him for refusal of information under provisions of the Act, thereby causing avoidable inconvenience to the information seeker. His explanation should reach the Commission within 2 weeks from issue of this order.

Registry to mark a copy of the order to the Secretary to Govt. Revenue Department to sensitize officers entrusted with issue of

SC/ST certificates in view of facts brought to the notice of the Commission as stated hereinabove.

Notice be sent through Deputy Commissioner Srinagar.

Sd/-

**(Nazir Ahmed)**  
**State Information Commissioner**

Copy to the:-

1. Assistant Commissioner Revenue Srinagar(FAA) He is directed to serve upon this order to Sh. Bashir Ahmad Rather, the then Tehsildar North Srinagar.
2. Tehsildar North, Srinagar(PIO).
3. Sh. Bashir Ahmad Rather, the then Tehsildar North Srinagar.
4. Mst. Nasreen W/o Ashiq Hussain Malik R/o Babapora Habbakadal, Srinagar.

Copy also to:-

Secretary to Government Revenue Department, Civil Secretariat,  
Jammu.

(M.S. Bhat)  
Deputy Registrar,  
J&K State Information Commission