



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/SA/32/2013
Decision No. SIC/K/SA/32/2013/115

Title: Shri Khursheed Ahmad Bhat **v/s** SE PHE MID, Sopore
s/o Ali Mohammad Bhat XEN PHE MID, Sopore
r/o Drangbal Baramulla **(Respondents)**
(Appellant)

Present:

1. Sh. Ashok Kumar Gupta, Superintending Engineer, PHE Mechanical Division North, Sopore.
2. Sh. Javaid Ahmad, Xen Mechanical Division North, Sopore.
3. Sh. Khursheed Ahmad Bhat, Appellant.

Srinagar

23.12.2013

The Commission received Second Appeal on 11.10.2013 from Shri Khursheed Ahmad Bhat s/o Ali Mohammad Bhat r/o Drangbal Baramulla against FAA/Superintending Engineer North Circle Sopore and PIO/Executive Engineer PHE Mechanical Division North, Sopore stating that he filed an RTI application before PIO/Xen seeking certain information. The appellant has further stated that since no information was provided in stipulated time of 30 days he filed first appeal on 24.07.2013 before FAA/Superintending Engineer North

Circle Sopore. After filing First Appeal, he received communication from PIO dated 01.08.2013 asking him to deposit Rs. 13000/- and the PIO again vide letter 05.09.2013 directed him to deposit the amount besides enclosing 17 leaves of information and still has not received full information from PIO. The appellant has requested the Commission to impose penalty against FAA/PIO under section 17 of RTI Act besides directing PIO to provide the required information as sought in the RTI application.

Records enclosed with the appeal reveal that the appellant filed an RTI application on 22.06.2013 before PIO/Xen PHE Mechanical Division Baramulla seeking information on 05 queries with regard to candidates engaged under casual/seasonal/need basis w.e.f. 1st January 2006 to June 2013 (paid/unpaid) alongwith norms/name of authority/particulars of persons engaged and their qualification etc.

The appellant filed First Appeal before FAA on 24.07.2013 on the grounds that PIO has not responded to his RTI application within the mandatory period.

FAA vide letter dated 29.07.2013 directed PIO/Xen to provide requisite information/documents to the information seeker within shortest possible time under intimation to his office.

Consequently PIO/Xen vide letter 01.08.2013 responded by asking the information seeker to deposit an amount of Rs. 13000/- in the first instance. Thereafter under letter dated 05.09.2013 PIO again

giving reference of letter datd 01.08.2013 directed the information seeker to deposit the amount the amount as per the RTI Rules 2012 and also enclosed 17 leaves of information comprising of statement of Casual/ITI/Need Bases/Seasonal Labourers.

The case was heard in the Commission on 02.12.2013 and it was noted that the order passed by the PIO dated 01.08.2013 is not in accordance with Section 7(3) of the Act as the same has been issued after expiry of mandatory period of 30 days. PIO however, submitted that the information pertained to old records and it took time to work out estimated amount. The response given by him is in good faith as information in respect of list of casual labours were given prior to filing of appeal in the Commission. On the request of the PIO, two weeks time was granted to respond to other limbs of the RTI application.

In compliance to the orders of the Commission, PIO vide communication dated 18.12.2013 has responded to other limbs of the RTI application as under: -

- i) The required information is recorded in the enclosed statement under column No. 2,3,4 duly authenticated by the undersigned.
- ii) The engagement of ITI/need based casual labourers has been made strictly in accordance with Govt. Order No. 239-F of 2005 dated 29.11.2005(copy enclosed).
- iii) No such engagement order has been issued in respect of Need Based casual labourers whose reference of authority is

shown under Column No. 08 other than ITI need based casual labourers in terms of the said Govt. Order

- iv) **A. The same are written under column No. 02 and 04 in the enclosed statement.**
- B. It is recorded vide column No. 05 in the appended statement.**
- C. The same are shown in the appended statement on column No. 06.**
- D. The same are shown in the enclosed statement vide column No. 07.**
- E. The information is given under 3rd point (1) above. Further the information from sub points A to E is shown in the statement, as desired”.**

v) The information seeker inspected records on 09.12.2013 and he was satisfied.

The inspection of log books (one limb of query V) has been confirmed by appellant in his written statement dated 09.12.2013, which is taken on record.

During proceedings today, the appellant submitted that in response to query iii, out of 7 orders only 4 orders have been provided and 3 orders viz. 1) SE's No. 1225 dated 26/6/2006, 2) SE's No. 3974-75 dated 5/2/2009 and 3) PS/MOS/10/IFC-398/07 dated 20/2/07 have not been provided.

PIO submitted that the information had to be traced from old records and that that he will make further efforts to trace out remaining orders from records, as identified by information seeker.

With regard to other limb of query (v) wherein appellant has sought certified photocopies of attendance sheets. PIO as well as FAA submitted that attendance are marked on master sheets and are pasted in monthly account file along with other vouchers and that no separate file of attendance is maintained. He further submitted that information can be traced only when particulars of person for a particular month is given as per information already given to him.

Heard both the parties and perused records.

From mere reading of query (v) of RTI application, it is clear that information sought is indeed vague /voluminous and can affect other public interests. In such cases where information sought is vague and voluminous, the Hon'ble Supreme Court in the case titled Inst. Of Chartered Accountants of India v/s Shaunak H Sayta & Ors. (2011) INSC 774 has in para 26 of the judgment observed as under: -

“We however agree that it is necessary to make a distinction in regard to information intended to bring transparency to improve accountability and to reduce corruption, falling under section 4(1)(b) and (c) and other information which may not have a bearing on accountability or reducing corruption. The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, the demand for information does not reach unmanageable proportions affecting other public interests, which include efficient operation of public authorities and government, preservation of confidentiality of sensitive information and optimum use of limited fiscal resources”.

In view of the above, the argument of PIO that this information can be traced from monthly accounts when particulars of person/s as

per the list already given to the information seeker and for a particular month is intimated, is upheld. The appellant is directed to intimate particulars of specific persons/specific months to PIO for his response within two weeks from issue of this order.

In so far as action against PIO is concerned, it is observed that information has not been denied by the PIO as he has asked the information seeker to deposit fee though belated and therefore there appears to be no malifide interest on part of the PIO.

The appeal is disposed of with the above directions,.

Sd/-

(Nazir Ahmed)
State Information Commissioner

Copy to the:-

1. Superintending Engineer, PHE Mechanical Division North, Sopore.(FAA).
2. Executive Engineer, PHE Mechanical Division North, Sopore.
3. Sh. Jhursheed Ahmad Bhat S/o Ali Mohammad Bhat R/o Drangbal Baramulla.

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