



Jammu and Kashmir State information Commission
(Constituted under The Right to Information Act, 2009)
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Old Assembly Complex, Srinagar. 0194-2484269, 2484262
www.jksic.nic.in

File No: SIC/K/Temp/13/2013
Decision No: SIC/K/Temp/13/2013/45

Title: Shri Manzoor Ahmad Bhat v/s Medical Superintendent,
s/o Gh. Rasool Bhat Govt. Chest Disease Hospital
r/o Khrew, Pulwama **(Respondent)**
(Complainant)

Present: Dr. Ishfaq Ahmad, Registrar Govt. Chest Disease Hospital, Srinagar.

Srinagar
20.05.2013

The Commission received a complaint on 19.02.2013 from Shri Manzoor Ahmad Bhat s/o Gh. Rasool Bhat r/o Khrew Pulwama against Medical Superintendent, Government Chest Disease Hospital (GCDH) Srinagar for not providing Xerox copies of indoor sheets. It has been stated by the complainant that his mother namely Mst. Asha w/o Late Gh. Rasool Bhat r/o Khrew Pulwama died in the GCDH Srinagar on 08.12.2012 under MRD No. 1548, Ward No. 3 and the death certificate was issued. Thereafter he had applied to the Medical Superintendent CD Hospital, Srinagar for issuance of Xerox copies of indoor case sheets under RTI application dated 21.01.2013 but unfortunately the authorities replied against the RTI application and the concerned Medical Superintendent have not provide Xerox copies of indoor case sheets as per said Hospital rules. It has further been averred that the Medical Superintendent has not mentioned clear rules however; the said rules are controversial, arbitrary and violates the

article 14 of the constitution of India which guarantees the citizen "equality before the law".

Upon examination in the Commission, RTI application was found deficient in respect of proof of application fee and complainant was accordingly informed by the Registry vide letter dated 28.02.2013 to submit proof of application fee. This was responded to by the complainant vide letter dated 29.04.2013 by providing copy of the postal order of Rs. 10/- and also enclosing copy of paper cutting titled "provide photocopies of answer scripts: SIC to PSC".

Records enclosed with the complaint reveal the complainant filed an RTI application through registered post addressed to Medical Superintendent, GCDH Srinagar on 21.01.2013 seeking following information: -

"Xerox copies of indoor medical history sheets of Mst. Asha w/o Gh. Rasool Bhat r/o Khrew"

This application has been disposed of by the PIO/Medical Superintendent vide order dated 30.01.2013 as under: -

"It is hereby informed to your good self that Xerox copies of indoor case sheets cannot be provided as per rules".

This reply is admitted to have been received by the complainant and therefore RTI application has been disposed of within prescribed period by the PIO/Medical Superintendent.

In response to the notice of the Commission seeking reply/ counter statement, Medical Superintendent, GCDH Srinagar vide letter dated 04.05.2013 has informed the complainant with copy to the Commission as under:

- 1. "The reply furnished by the Public Information Officer is specific.**
- 2. It is for your information that the reply has been furnished in time within one month and the question of any action, penalty or delay in providing information beyond period stipulated in Section (i) of RTI Act, 2009 does not arise.**

3. As per RTI Act, Section 8 & 9 and under the Indian Constitution Act 21, Xerox copies of personnel medical history containing material of fiduciary relationship concern cannot be provided”.

In response to the notice for appearance, Dr. Ishfaq Ahmad, Registrar, GCDH Srinagar appeared on due time at 11.00 am, however the complainant did not appear. The complainant was contacted by the Personal Section of the Commission on his cell No. 9419554038 at around 11.25 am. The complainant reportedly informed that he is held up in a traffic jam and shall reach the Commission within half an hour and therefore the case was adjourned. However the complainant did not attend the Commission until 12.15 pm and therefore the hearing was conducted in his absence.

Perusal of response of PIO dated 30.01.2013 reveal that PIO has cited rules for not providing Xerox copies of indoor case sheets. Subsequently in his communication dated 04.05.2013, para wise reply has been given to the complaint wherein provisions of section 8 & 9 of the RTI Act have been invoked for not providing Xerox copies of personal medical history containing material of fiduciary relationship.

Section 8(1)(e) of J&K RTI Act, 2009 “Exemption from Disclosure of Information” provides that there shall be no obligation to give any citizen information available to a person in his fiduciary relationship unless competent authority is satisfied of the larger public interest warrants disclosure of such information. In the instant case the information sought is indoor medical history sheets of Mst. Asha w/o Late Gh. Rasool Bhat r/o Khrew Pulwama who is a person other than the information seeker. Such information falls within the definition of information available to persons in fiduciary relationship as has been clarified by the Hon’ble Supreme Court in Civil Appeal No 6454 of 2011 the case titled Central Board of Secondary Education & Anr. v/s Adiya Bandopadhyay & Ors. under para 22.

However exemption under this section is not absolute and information can be disclosed if the Public Authority is satisfied that larger public interest warrants disclosure of such information.

In this particular case the complainant has not put forward any public interest either in his RTI application or in his complaint which would have allowed the PIO to consider it and pass an order accordingly

With regard to the press cutting provided by the complaint regarding decision of State Information Commission directing the PSC to provide photocopies of answer scripts to an information seeker, this issue has also been settled by the Hon'ble Supreme Court in the judgment referred above under para 22 by stating that 'this Court did not find that kind of fiduciary relationships between the examining body and the examinee, with reference to the evaluated answer-books, that come into the custody of the examining body'.

Therefore on the basis of facts brought on record, the Commission does not find any merit in the complaint of the information seeker which would warrant any action under section 15 of the Act with regard to complaint filed by a person. Accordingly the complaint is dismissed.

Sd/-
(Nazir Ahmed)
State Information Commissioner

Copy to the: -

1. Medical Superintendent, Government Chest Disease Hospital, Srinagar.
2. Shri Manzoor Ahmad Bhat s/o Gh. Rasool Bhat r/o Khrew Pulwama.

(Mohammad Sayed Shah)
Registrar,
J&K State Information Commission