



**Jammu and Kashmir State information Commission**  
(Constituted under The Right to Information Act, 2009)  
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File No: SIC-K/SA/12/2013  
Decision No: SIC-K/SA/12/2013/56

Title: Sh. Mohd. Yousuf Dar, v/s Joint Director,  
S/o Abdul Gani Dar Directorate of School Education,  
(Appellant) Kashmir (Respondent)

Present: 1. Ms. Suraya Akhtar, Joint Director/PIO, Directorate of School  
Education, Kashmir.  
2. Shri Mohammad Yousuf Dar, Appellant.  
3. Shri Ali Mohammad Dar, Rep. of Appellant.

**Srinagar**  
**02.07.2013**

This is a Second Appeal filed by Shri Mohd. Yousuf Dar s/o Abdul Gani Dar r/o Kulhama Khansahib, Budgam against PIO Directorate of School Education Kashmir (DSEK) on the grounds that he submitted an RTI application before PIO on 27.12.2012 received by PIO on the same day. The Appellant has further submitted that PIO has provided incomplete information and that First Appeal has been submitted before the FAA on 16.02.2013 but the information provided against First Appeal is still incomplete.

The appeal was received in the Commission on 15.04.2013 and some deficiencies noticed which were intimated to the Appellant on 17.04.2013. These

deficiencies were completed and received in the Commission on 01.05.2013 and the Appeal was accordingly admitted on 07.05.2013.

Brief facts of the case are that an RTI application was filed by the Appellant before PIO DSEK on 27.12.2012 seeking information on 5 queries which are summarized as under: -

1. Copies of proceedings of enquiry and findings conducted by Joint Director Ms. Suriya Akhter and CEO Budgam upon the letter No. CBK/R/Misc/35/11/14984-85 dated 30.12.2011 of SSP Crime Kashmir regarding appointment on fake certificates.
2. Copies of correspondences that the Directorate has made against Police Officer Sh. Ali Mohammad Dar (DySP) of J&K Police and on whose feedback/behest it has been written.
3. Copy of attendance from 20.09.2012 to 31.10.2012 from Arrival Register taken over by Joint Director Ms. Suriya Akhter when she visited Primary School Bon-Hanjiguru Zone Handpanzoo.
4. Copies of proceedings of enquiry conducted against Umar Irfan (ReT) of Zone Handpanzoo regarding his medical leave alongwith findings of the enquiry with full particulars of enquiry officer.
5. Copies of action taken report by Joint Director School Education, CEO Budgam and ZEO Handpanzoo, Head Master Middle School Zabgullah and Head Master Primary School Bon-Hanjiguru with regard to orders of Hon'ble High Court dated 03.12.2012.

PIO has disposed of the RTI application under letter dated 23.01.2013 enclosing therewith information comprising of 53 pages, as under:

**“Point No. 1,2, & 3: Information enclosed.**

**Point No. 4: On receipt of complaints from locals and reports from sub-offices (ZEO & CEO) charge sheet was served by Directorate of School Education Kashmir vide No. DSEK/Legal/1343/misc/1802 dated 26.06.2012. Since the authority to deal the matter under rules was ZEO/CEO concerned, as such, further appropriate action u/r was taken by the ZEO concerned vide No. ZEO/HP/012/820-25 dated 24.11.2012. The applicant has also acknowledged the action taken and filed a writ petition in this behalf of which a mention has been made in para 5.**

**Point No. 6: It is informed that the case filed by petition is sub-judice. Chief Education Officer and ZEO concerned were placed under instruction**

**to defend the case through Additional Advocate General under rules/norms”.**

Aggrieved by the order of the PIO, the appellant filed First Appeal which was received by the FAA on 16.02.2013. First Appeal has been adjudicated by the FAA on 13.03.2013 by passing a speaking order on the points raised as under: -

- 1. “Perusal of records reveals that information seeker was provided the available information earlier vide No. DSEK/OSD/IVW/RTI/F-341/11387 dated 23.01.2013 along with 53 enclosures in response to his application dated 27.12.2012. The appellant in his appeal is requesting for providing information in respect of Bashir Ahmad Bhat of Zone Hadapanzoo with information with reference to follow up action in terms of letter No. CKB/Misc/35-11/9895-96 dated 08.09.12 from Senior Superintendent of Police, Crime Branch Kashmir addressed to Chief Education Officer Budgam. (Copy enclosed).**
- 2. The said communication from Crime Branch Kashmir was forwarded to Chief Education Officer Budgam vide this office No. DSEK/OSD/IMW/F-2230/part-III/10027-28 dated 17.09.12 for N/A (copy enclosed) and there was no mention of Bashir Ahmad Bhat Zone Hadapanzoo in the said communication in whose respect information is sought.**
- 3. The information seeker has alleged that seeking of seized certificates/verification report of fakeness of certificates from Crime Branch Srinagar by the enquiry Officer is an unnecessary delay on the part of inquiry officer in the fact of letter issued by the Crime Branch & has also alleged that copy of communication regarding the same has not been provided to him.**

**This Directorate has already initiated action against the regularized ReTs in question & charge sheet has been served to them. Besides the information seeker has not mentioned anything regarding the communication with Crime Branch. This Directorate vide No. DSEK/OSD/IVW/F-2230/part/III/11663 dated 28.02.2013 has requested Crime Branch Kashmir to provide the seized certificates of the ReTs in question (copy enclosed).**

- 4. The information seeker in the same breath is also stating that he documents related to enquiry conducted by Joint Director (EE) against the unauthorized absence of Umar Irfan Dar, then ReT (disengaged) Middle School Zubgulla have also not provided to him besides he is asking for day**

to day proceedings conducted with effect from 26.06.2012 to 23.11.2012 and copy of correspondences made by this directorate with CEO and ZEO concerned have also not been provided to him.

The unauthorized case of the said Umar Irfan Dar has been enquired by CEO concerned and Principal Hr. Sec. School Budgam (copy enclosed) and follow up action as warranted under rules which resulted to the disengagement of said RET has been taken by CEO concerned in terms of relevant provisions of the RET scheme in vogue. The case has been subjudice and a subject matter between the disengaged RET and the respondents. Appropriate reply on the basis of records/rules has been submitted by the concerned subordinate officers before the Hon'ble Court and is under consideration. (Copy enclosed).

The documents related to the follow up action on the basis of enquiry conducted by the enquiry officers and the follow up action by Chief Education Officer concerned stands provided to the information seeker. The inquiry conducted by the JD (EE) of this Directorate is enclosed herewith.

5. The information seeker has also sought the particulars of the Inquiry Officer.

"In this regard information seeker by be communicated that the particulars are as same as mentioned in the seal & signature portion of the already communicate letter dated 23.01.2013 addressed to the said information seeker.

6. The information seeker is also requesting for the action taken by the respondents in terms of order dated 03.12.12 issued by the Hon'ble High Court in the writ petition filed by the disengaged RET Umer Irfan Dar.

The Chief Education officer Budgam vide his No. CEOB/Legal/13/233 dated 12.03.2013 reported that the court order passed by the Hon'ble High Court of J&K dated 03.12.2012 has been implemented in its letter and spirit vide No. CEOB/Legal/12/107 dated 12.12.2012 and the Para Wise objection has been filed by the ZEO concerned through Additional Advocate General vide No. ZEO/HP/833 dated 20.12.2012. However, as reported by the ZEO concerned vide No. ZEO/HP/1028 dated 10.03.2013 the petitioner has not reported to his duties at his initial place of posting at MS Zabgulla till date (copy enclosed)".

Aggrieved by the order of the FAA, the Appellant filed Second Appeal in the Commission on the following grounds: -

1. PIO was requested to provide copies of proceedings with regard of enquiry against ReT Umar Irfan of Zone Hadpanzoo. Instead of providing the required relevant information the PIO has concealed the facts/information with some malafides and always replied as if PIO has personal grudge against said ReT.

2. After making a statement regarding medical leave and medical certificate issued by Assistant Professor and giving reference to CEO Budgam's letter No. CEOB/IMW/LNS/12-8190 dated 15.06.2012 and the Medical Superintendent Bone & Joint Hospital Srinagar letter No. BJS/1099 dated 02.07.2012, information seeker has asked a question as under: -

“What was the motive of referral of Medical Certificate to Superintendent Bone & Joint Hospital Srinagar, what report he provided with regard of said Medical Certificate, why that report has not been taken into account during the enquiry as the entire enquiry was depending upon the report of said Medical Superintendent”.

3. The dis-engagement order No. ZEO/HP/Susp/820-25 dated 24.11.2012 reveals that Headmaster M/S Zabgullah has written some report/letters vide his No. 29 dated 29.03.2012, letter No. Nil dated 29.03.2012 and letter No. 01-2012 dated 08.11.2012 which forms part of the enquiry. The copies of all such letters have not been provided with some deliberate malafide intention.

The reply/counter statement of FFA/PIO was sought on the contents of the Second Appeal which has been responded to by the FAA DSEK vide letter DSEK/OSD/IMW/RTI/F-341/1007-08 dated 18.05.2013 as under: -

**1. “That the appellant (Sh. Mp. Yousuf Dar) submitted an RTI application dated 27.1.2012 (Annexure-A) addressed to the Director School Education Kashmir. As per records available the information was processed and**

provided to the information seeker by the then Director School Education Kashmir vide this Office No. DSEK/OSD/IMW/RTI/F-341/11387 dated 23.01.2013 alongwith with 53 enclosures.

2-3. That the First Appellate Authority (Director School Education Kashmir) while disposing the appeal dated 28.01.2103 (Annexure C) vide No. DSEK/OSD/IMW/RTI/F-341/11497 dated 30.01.2013 (Annexure D) has informed the information seeker that PIO has dispatched the information on 23.01.2013 on the address given in his application dated 27.12.2012.

The information seeker was again not satisfied and approached the First Appellate Authority (Director School Education Kashmir) vide appeal received by the Directorate

4. That the information seeker has not sought this information. This he is agitating in the 2<sup>nd</sup> appeal which pertains to the Medical certificate regarding which the Chief Education Officer Budgam has written to the Bone & Joint Hospital Srinagar vide No. CEOB/IMW/Ins/12/8190 dated 15.06.2012 (Annexure G)".

The Appellant admitted to have received the counter statement.

Contents of the RTI application, information provided by the PIO, order passed by the FAA and counter statement of the FAA along with additional information perused and discussed before Appellant and PIO DSEK. The issues raised in the Second Appeal have been responded as under:

Regarding para 1 i.e., proceedings with regard to enquiry against ReT Umar Irfan of Zone Hadpanzoo, FAA at para 3 of his order has stated that the unauthorized case of the said Umar Irfan Dar has been enquired by CEO concerned and Principal Higher Secondary School Budgam (copy enclosed) and follow up action as warranted under rules which resulted to the disengagement of said ReT has been taken by CEO concerned. The enquiry report of Principal Higher Secondary School Budgam and order of ZEO Hardapanzoo have been provided to the information seeker.

Regarding para 2, the queries are in nature of seeking justification such as '**what**' report he provided with regard to said Medical Certificate, '**why**' that

report has to be taken into consideration during the enquiry etc, the Commission holds that seeking justification such as 'what', 'why' etc. does not fall under the definition of "information" under Right to Information Act.

Regarding para 3 of the Second Appeal, the appellant has given reference to some letters regarding disengagement order and some other references which reportedly forms part of the enquiry which have not been provided with some deliberate malafide intention. To this, the Commission agrees with the para 4 of the counter statement of the FAA that the Appellant has not sought these records in his RTI application.

From above it is concluded that information asked for in the RTI application and falling under the definition of "information" have been provided to the information seeker through order of the PIO, explanation given by the FAA in his order dated 13.03.2013 and counter statement of FAA dated 18.05.2013.

Order pronounced in open court. Appeal disposed of.

Sd/-  
(Nazir Ahmed)  
State Information Commissioner

Copy to the: -

1. Joint Director School Education Kashmir.
2. Shri Mohd. Yousuf Dar s/o Abdul Gani Dar r/o Kulhama Khansahib, Budgam.

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