



**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  
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File No: SIC-K/Comp/131/2012  
Decision No. SIC-K/Comp/131/2012/58

**Order in Proceedings under Section 17 of J&K RTI Act, 2009**

**Case titled Haji Mohammad Ashraf Baba r/o Gulshanabad Chrari Sharief**  
**v/s Tehsildar Chrari Sharief**

**Srinagar**  
**10.07.2013**

1) Brief facts of the case are that the information seeker Haji Mohd. Ashraf Baba s/o Shri Gh. Mohd. Baba r/o Gulshan Abad Chrari Sharief filed an RTI application before Divisional Commissioner Kashmir on 09.04.2012 seeking following information:

**“kindly provide p/s copy under Roshni Act under Form No. 653, 2141, 2140, 2139, 405, 407, 406, 553, 659, 427 and the application of Zamrooda Bani w/o Mohammad Ashraf Baba (Mattoo).**

**Kindly provide the information whether the compensation of land under khasra No. 3794, 3790, 3831, 3791 under S. No. 33, 36, 60 and 39 in estate Chrari Sharief in Zinpanchal to Dalwan road under PMGSY has been paid, if so , the list may be provided”.**

This RTI application was transferred by APIO Divisional Commissioner’s office to Nodal Officer/PIO Budgam on 09.04.2012 and thereafter ADC Budgam under letter dated 11.04.2012 transferred the RTI application to Tehsildar Chrari Sharief stating as under: -

**“Since the information sought by the above mentioned information seeker is most appropriately held by your office, so in terms of section 6(3) of Right to Information Act, 2009, the application is transferred to you for providing requisite information/documents to the aforesaid person within the stipulated time under intimation to this office”.**

This RTI application has been received by Tehsildar on 17.04.2012 and therefore Tehsildar Chrar-i-Sharief is deemed as PIO for disposal of this RTI application.

2) Thereafter the information seeker filed a complaint before the Commission on 12.06.2012 stating that his RTI application referred to above has not been responded to within the stipulated time by the PIO and requested the Commission for strict orders to the concerned officers.

3) The case was heard by the Commission on 03.09.2012 and the complaint was disposed of vide order No. SIC-K/Comp/131/2012/188 dated 03.09.2012, operative part of which is as under:-

- I) **It is obvious that RTI application received on 17.04.2012 has not been disposed of till 05.08.2012 and therefore there is delay in providing information.**
- II) **Also the disposal of RTI application is insufficient as details of First Appellate Authority have not been given as required under section 7 of the Act and therefore complainant shall be at liberty to file an appeal before FAA Office of the Deputy Commissioner Budgam in case he is aggrieved with the information provided by PIO/Tehsildar Chrar-i-Sharief. FAA Office of Deputy Commissioner Budgam is directed to admit the appeal, if filed by the complainant, within two weeks from issue of this order.**
- III) **Registry to issue final show cause notice to the PIO/Tehsildar Chrar-i-Sharief by name as to why penalty under section 17 shall not be imposed on him for delay in providing information beyond 30 days @ Rs. 250/- per day. His explanation should reach the Commission within two weeks from issue of this order.**
- IV) **The Commission has taken a serious note for non-appearance of the PIO/Tehsildar Chrar-i-Sharief in response to notice dated 22.08.2012 and he will explain as to why action shall not be taken against him under section 32 of CPC for non-appearance before the Commission on 03.09.2012. Registry to issue notice returnable within two weeks of issue of this order.**

4) The Registry of the Commission issued a notice vide No. SIC/K/Comp/131/2011/15-96 dated 07.09.2012 calling upon the Tehsildar Chrari Sharief to explain / show cause as to why penalty under Section 17 of J&K RTI Act, 2009 may not be imposed upon him for the delay in providing information beyond 30 days @ Rs. 250/- per day and also why action shall not be taken

against him under Section 32 of CPC for non-appearance before the Commission on scheduled date and time.

5) Tehsildar Chrari Sharief Shri Ali Mohammad submitted his reply/explanation vide No. 645/The/Ch/OQ dated 17.09.2012 stating therein as under:-

- I. **“That the undersigned after my transfer took over the charge as Tehsildar Chrari Sharief on 01.09.2012. the undersigned had no information about the personal attendance of the PIO (Tehsildar Chrari Sharief) which was fixed by the Commission vide notice dated 27.08.2012 on 03.09.2012. it was only after the receipt of present show cause notice bearing No. SIC-K/comp/131/2011/15096 dated 07.09.2012 received on 12.09.2012, the undersigned came to know about the non-compliance of the directions the Hon’ble Commission as also the delay in providing the requisite information to the applicant (information seeker).**
- II. **That, as already submitted above the undersigned has taken over the charge of the present office only on 01.09.2012 and has perused the file only after the receipt of the present notice on 12.09.2012. The examination of the file reveals that the information has been provided to the applicant (information seeker) after the stipulated time of thirty (30) days by the then Public Information Officer.**
- III. **That, as already submitted above in para-1 and 2, undersigned took over the charge as Tehsildar Chrari Sharief only on 01.09.2012 and had no information about the case till the present notice was received by the undersigned only 12.09.2012, as such the undersigned cannot be held guilty under section 17 of the RTI Act for not providing the information within the stipulated time of thirty days. It is, therefore prayed that the charges of imposition of penalty under section 17 of the RTI Act may kindly be dropped against the undersigned”.**

6) Subsequently Registry of the Commission issued another notice vide No. SIC/K/Comp/131/2012/24067 dated 25.10.2012 to Tehsildar Chrari Sharief asking him to communicate the Commission the name, address and present place of posting of the then Tehsildar during whose tenure the application dated 09.04.2012 was received and also to intimate the Commission the date on which the information was provided to the information seeker.

7) Tehsildar Chrari Sharief vide letter No. 729/The/Ch/OQ dated 09.11.2012 responded by submitting as under: -

- I. **“That this office has already provided the requisite information to the information seeker and have received the proper receipt on 05.05.2012 (enclosed for perusal).**
- II. **That the then Tehsildar was Shri Gh. Rasool Wani presently posted as Tehsildar Anantnag**
- III. **”.**

8) Consequently Registry of the Commission issued notice vide No. SIC/K/Comp/131/2012/26068 dated 07.12.2012 to Shri Gh. Rasool Wani, Tehsildar Anantnag as under: -

- I. **“On 12.11.2012 Commission received a communication from the Tehsildar Chrari Sharief where it is mentioned that you were posted as Tehsildar Chrari Sharief when the RTI application of the complainant dated 09.04.2012 was received by your office on 17.04.2012. Now through the medium of this notice you are required to explain/show cause as to why penalty under section 17 may not be imposed upon you for delay in providing information to the information seeker.**
- II. **Further, you are required to explain as to why action shall not be taken against you under section 32 CPC Samvat-1977 read with section 15 of RTI Act for non-appearance before the Commission on 03.09.2012 although a notice intimating you about the date and time was issued to you on 22.08.2012 by the Commission”.**

9) Shri Gh. Rasool Wani, Tehsildar Anantnag vide letter No. TA/OQ/12/1640-/1 dated 20.12.2012 submitted as under: -

- I. **“That it is true I was posted as Tehsildar Chrari Sharief when the information seeker applied for information on 09.04.2012 and received by my office on 17.04.2012.**
- II. **That the said information was provided to the information seeker on 05.05.2012 against a proper receipt and the information was received by the applicant’s son, to the extent whichever was available in my office, as most of the files alongwith forms and other bio-data of Roshni cases were already sent to Deputy Commissioner Budgam.**
- III. **That I was transferred on 08.06.2012 to Tehsil Anantnag and have not received any summon or communication so far wherein I was directed to appear before the Commission.**
- IV. **That as already submitted above undersigned has acted well in time and cannot be held guilty under section 17 of the RTI Act. It is therefore prayed that the charges of imposition of penalty under**

**section 17 of the RTI Act may kindly be dropped against the undersigned and provide justice”.**

10) During scrutiny of authenticity of the documents, discrepancies were noticed in references given by Shri Gh. Rasool Wani as above. Accordingly Registry of the Commission issued notice vide No. SIC/K/Comp/131/2012/84-85 dated 14.01.2013 to Shri Gh. Rasool Wani, Tehsildar Anantnag and Tehsildar Chrari Sharief for appearance before the Commission on 22.01.2013 alongwith following original documents:

- i) **Letter dated 05.08.2012** referred to in letter No. 605/Teh/Chr/OQ dated 30.08.2012,
- ii) **Letter dated 05.05.2012** referred to in Tehsildar Chrari-Sharief's letter No. 729/Teh/Chr/OQ dated 09.11.12 and also in explanation/reply of Shri G.R. Wani Tehsildar Anantnag, the then Tehsildar Chrari-Sharief's letter No. T/A/OQ/12/1640/1 dated 20.12.2012 and
- iii) **Letter No.SIC/K/Com/131/2012 dated 05.05.2012** referred to in letter dated 05.05.2012 referred herein above.

11) Tehsildar Chrari Sharief produced original letter dated 05.08.2012 wherein reference of SIC notice date 25.06.2012 has been given. This document is the same as was communicated to the Commission earlier also and recorded in decision of the Commission SIC-K/Comp/131/2012/188 dated 03.09.2012. Tehsildar Chrari Sharief was directed to file his reply/counter statement in light of the evidence brought on record.

Tehsildar Chrari Sharief vide communication No. 856/The/Chr/OQ dated 29.01.2013 submitted as under: -

“.....that actual date of providing the information to the information seeker is 05.08.2012 and not 05.05.2012 which date on minute examination has been tampered by the then Dealing Assistant. Tehsildar Chrari Sharief, further submitted that an enquiry to fix the responsibility has already been initiated in this behalf by this office which is still pending. The name with the period of posting of Tehsildar with present place of posting is as under:

<u>Name</u>	<u>Period from to</u>	<u>Present posting</u>
i) Gh. Rasool Wani	27.10.2011 to 26.06.2012	Tehsildar Anantnag.
ii) Ab. Ahad Dar	27.06.2012 to 30.08.2012	Retired

12) As the RTI application was filed and received during the tenure of Sh. Gh. Rasool Wani, the then Tehsildar Chrari Sharief, final show cause notice was served

upon Sh. Gh. Rasool Wani vide Commission No. SIC/Com/131/2012-84-85-192 dated 06.02.2013 as under: -

**“.....Whereas as examination of documents brought on record of the Commission it was observed that letter dated 05.08.2012 has been tampered with to show it as 05.05.2012. This is evident from the fact that the reference of notice of the Commission bearing No. SIC/K/Com/131/2012 dated 05.05.2012 was actually issue on 25.06.2012 and even date of the notice of Commission has been tampered. It therefore is evident that actual date of issue of letter under which information has been sent is 05.08.2012. You have therefore failed to dispose of the RTI application until your transfer on 08.06.2012.**

**In view of the above, you are provided a last opportunity to explain your position within period of 15 days from the date of issue of this notice failing which it shall be presumed that you have nothing to say in your defense and penalty/action under Section 17 of RTI Act shall be imposed. You are further directed to explain as to why action under rules shall not be initiated against you for submitting tampered documents to the Commission”.**

13) Shri Gh. Rasool Wani, Tehsildar Anantnag vide his communication No. T/A/OQ/12-1906 dated 16.02.2013 submitted his para wise reply to the final show cause notice of the Commission dated 06.02.2013 has admitted as under: -

**“It is true that the information has been provided to the information seeker on 05.08.2012 but not on 05.05.2012. The tampering in the receipt of information seeker has been done by the official of Tehsildar Chrari Sharief as the receipt clearly shows the signature of officer and initials of officials are still working in Tehsil Chrari Sharief. However, I would like to submit that I have not provided the information to the information seeker well in time because of the reasons of that the land in question about which the information was to be revealed is state/forest land and comes in the alignment of Chrari Sharief – Yusmarag Road as the Land Acquisition process of said road was on cards and my field staff was busy with preparation of Shajara Khasra and also the Roshni application were at different stages of processing. Some of the applications were under process in Deputy Commissioner’s Office Budgam and the application on which the orders were issued by the prescribed authority were lying with the applicants for deposition of fee prescribed under the Act. As such undersigned could not furnish the said information to the information seeker till my transfer”.**

14) The respondent Shri Gh. Rasool Wani has himself admitted in his reply to show notice that information has been provided on 05.08.2012 and not on 05.05.2012 as was stated by him in his earlier communication. Therefore the RTI application filed before him has remained pending upto date of his transfer on 26.06.2012. The reasons for delay given by Tehsildar is not convincing as these are part of routine duty of revenue officers. Even for arguments sake, if the information was not available/under process as stated by PIO, he was duty bound to dispose of the RTI application by passing an order under section 7(1) of the Act either by providing information or rejecting the request for any reasons specified in section 8, 9 of the Act. Besides PIO is required to transfer/seek assistance of other Public Authority as is required under section 5 sub-section 4,5 and section 6 sub-section 3(a) of the J&K RTI Act, 2009.

As per evidence brought on record, no such order has been passed within statutory period of 30 days i.e., upto 16-05-2012.

15) Shri G.R. Wani, the then Tehsildar Chrari Sharief was given an opportunity of being heard in person before the Commission with additional evidence if any, on 13.05.2013. Shri G.R. Wani appeared and submitted that he verbally informed RTI applicant for not providing information as explained at para 13 above, and submitted that he has not given anything in writing in this regard. Besides, he also did not produce any evidence of RTI application having been transferred/sought assistance for providing part or full information, as required under section 5 sub-sections 4, 5 and section 6 sub-section 3(a) of the J&K RTI Act, 2009 if the information was held by any other office or Public Authority.

16) It has therefore been established that the application under reference has been received by Tehsildar on 17.04.2012 and remained pending with Shri Gh. Rasool Wani, Tehsildar upto his transfer as Tehsildar Anantnag on 26.06.2012 causing a delay of 40 days in disposing of the RTI application beyond stipulated period of 30 days. This has been admitted by him in his explanation quoted.

17) Accordingly, penalty for a period of 40 day delay @ Rs. 250/- per day amounting to Rs. 10,000/- (Rupees Ten Thousand Only) is imposed against the defaulting PIO (the then Tehsildar Chrari Sharief) as per section 17 of the J&K RTI Act, 2009.

18) The Drawing and Disbursing Officer of Shri Gh. Rasool Wani, Assistant Commissioner Revenue Anantnag (the then Tehsildar Chrari Sharief) will ensure deduction of penalty amount of Rs. 10000/- (Rupees Ten Thousand Only) from the salary of Shri Gh. Rasool Wani, ACR Anantnag in two equal installments from the Month of July, 2013 & August 2013 and remit it to Government Account head

“0070-Other administrative Services” with intimation to this Commission. The DDO is further directed to submit a compliance report alongwith a copy of deduction certificate/ Challan with T.V. No. and date to this Commission.

18) With these observations the complaint is accordingly disposed of.

Sd/-  
(Nazir Ahmad)  
State Information Commissioner, J&K.

Copy to the: -

1. Deputy Commissioner Anantnag.
2. Drawing & Disbursing Officer, Office of Deputy Commission Anantnag.
3. Shri Gh. Rasool Wani, Assistant Commissioner Revenue, Anantnag.
4. Tehsildar Chrari Sharief.
5. Haji Mohammad Ashraf Baba s/o Shri Gh. Mohd. Baba r/o Gulshan Abad Chrari Sharief.
6. Guard File.

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