



Jammu and Kashmir State information Commission
(Constituted under The Right to Information Act, 2009)
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File No: SIC/K/SA/38/2013

Decision No: SIC/K/SA/38/2013/91

Title: Shri Kaiser Sediq Makhdoomi v/s 1. First Appellate Authority
S/o Mohammad Sediq Mukhdoomi 2. PIO, University of Kashmir
R/o Makhdoom Sahab, Srinagar . (Respondents)
(Appellant)

Present: 1. Ms Asmat Kawoosa, Dy. Registrar (First Appellate Authority) University of Kashmir,
2. Sh. Abdul Rashid Sofi, PIO University of Kashmir
3. Sh. Kaiser Sediq Makhdoomi, appellant

Srinagar
16.11.2013

The Commission received an appeal on 05.11.2013 from Sh. Kaiser Sediq Makhdoomi S/o Mohammad Sediq Makhdoomi R/o Makhdoom Sahab, Srinagar alleging denial of information by PIO and First Appellate Authority, University of Kashmir. The grounds of appeal are that in response to his RTI application dated 10.09.2013 wherein he has asked for providing Xerox copies of top and lowest candidates in the Junior Assistants recruitment written examination held on 13.01.2013 and also those of 17 candidates who stand selected and recruited as Junior Assistants. It is alleged that PIO University of Kashmir has denied this information vide his letter dated 19.09.2013 as under:-

“The present RTI application dated 10.03.2013 submitted for furnishing the required information/material has also not been found maintainable as the information sought falls

under restriction Clause (e&f) of Section (8) of RTI Act where under the disclosure of the information is debarred.”

Facts on record reveal that RTI application dated 10.09.2013 has been responded by PIO on 19.09.2013 as under:-

“This has reference to your RTI application dated 10.09.2013 highlighting thereunder few issues regarding your previous representations addressed to different quarters apart from asking for Xerox copies of the Examination material of other candidates having faced the Selection Committee for appointment to the post of Junior Assistant. In this connection, it is to inform you that the office of undersigned has not received any RTI application dated 26.06.2013 which warranted action from us. Although after receiving the Xerox copy of examination material pursuant to your RTI application dated 05.03.2013 you had immediately addressed a communication dated 26.06.2013 to the PIO with your observations in the matter, but the same being beyond the purview of RTI Act has not been found entertainable. Therefore, the PIO was under no obligation to redress any of your grievances in this behalf. Further it is not within the domain of the PIO to ask for action taken report about your representations addressed to different quarters as per the mandate of RTI Act. However, your complaint received through CM’s Grievance Cell and Hon’ble Governor Secretariat on the subject matter stand already replied by the University.

The present RTI application dated 10.09.2013 submitted for furnishing the required information/material has also not been found maintainable as the information sought falls under restriction clause (e&f) of Section (8) of RTI Act whereunder the disclosure of the information is debarred.”

Therefore, RTI application has been responded to within prescribed period as provided under the Act. Not satisfied with the response of the PIO, First Appeal has been filed before First Appellate Authority which has been received on 25.09.2013. During hearing First Appellate Authority, Ms Asmat Kawoosa produced copy of order passed by her in response to First Appeal on 07.11.2013, the operative part of which is as under:-

- 1. “Whether the information applied for by the RTI applicant can be delivered to him in the wake of communication dated 19.09.2013 issued to the applicant by the PIO;*
- 2. Whether the disposal of the case by the University PIO meets the requirements under the mandate of RTI Act. In response to his stand, the PIO University of Kashmir has stated that the RTI application of the applicant has not been found maintainable as the information sought falls under the restriction clause (e&f) of Section (8) of RTI Act where under the disclosure of the information is debarred.*

After final consideration of the matter, the undersigned is of the opinion that keeping in view the interests of the concerned selected candidates it will not be feasible to provide the requisite information. However, in order to clear the doubts of the appellant and to meet his demand for the purpose it is desirable to allow him to have access/inspection of the Examination papers of selected candidates who had applied for the post of Junior Assistant in the year 2012.

Accordingly the appeal is disposed off with a direction to PIO to facilitate the appellant in this behalf as and when he desires to do so preferably within a period of 10 days.”

The appellant admitted that he has received copy of this order but has not availed the opportunity for examination of the documents as per the directions of the First Appellate Authority and instead filed appeal before the Commission.

During the course of hearing, PIO produced the gist of orders passed by Central Information Commission in similar cases giving references and decisions as under:-

RECRUITMENT, DPC MINUTES AND DEPARTMENTAL/UNIVERSITY EXAMINATIONS	
REFERENCES	DECISIONS
Decision No. 417/IC(A)/2006 – F .No. CIC/MA/A/2006/00762 dated 06.12.2006 – Mr. Ajay Srivastava, Allahabad Vs UPSC New Delhi Appeal No. 231/IC(A)/2006 Order dated 01.09.2006 – Rajnish Singh Chaudhary Vs UPSC	Copies of Answer Papers cannot be provided due to fiduciary relationship with examiners.
Complaint No. CIC/WB/C/2007/0011-30.04.2007 – Mr. Sujit Pal, Hoogly, W.B Vs Staff Selection Commission, DOPT, Kolkatta	In the case of tests held by DPC if examinees are limited in number, disclosure of answer sheets to the employee concerned will bring transparency and accountability. But he will have no access to answer sheets of other employees.

Heard parties and perused the records.

In view of the evidence brought on record by the PIO and upon perusal of the directions of the Central Information Commission on similar cases, the Commission is of the view that providing photo copy of answer books of candidates other than information

seeker cannot be granted. However, information seeker has already obtained a photocopy of his answer book in response to an earlier application under RTI Act. Therefore, keeping spirit of RTI Act in view and in the interest of transparency, order passed by First Appellate Authority is upheld and appeal is disposed of.

Sd/-

(Nazir Ahmed)
State Information Commissioner

Copy to the:-

1. Deputy Registrar, University of Kashmir, Hazratbal Srinagar (First Appellate Authority).
2. Public Information Officer, Information Cell (RTI), University of Kashmir, Hazratbal Srinagar.
3. Sh. Kaiser Sediq Makhdoomi S/o Mohammad Sediq Makhdoomi R/o Makhdoom Sahab, Srinagar.

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