



Jammu and Kashmir State Information Commission
(Constituted under Right to Information Act 2009)
Old Assembly Complex, Srinagar, Fax No. 0194-2484269, 2484262
Wazarat Road Near DC Office, Jammu, Fax No. 0191-2520947, 2520937
www.jksic.nic.in

File No: SIC/J/A/72/ 2013
Decision No: SIC/J/A/72/2013/107

Sh. Iftikhar Khan Salaria Through Sh. Aseem Sawhney(Advocate)	Appellant	Present Present
Smt. Sudesh Khoda CRM, O/o Life Insurance Corporation of India, Divisional Office Cell, Jeevan Jyoti Building, 18 'A' Rail Head Complex, Jammu	PIO	Present

Jammu

01-05-2013

Briefly the facts in this appeal are that Sh. Iftikhar Khan Salaria C/o Salaria Industries, near Indira Theatre, Canal Road Jammu moved an application dated 09-01-2013 under J&K RTI Act, 2009 before the PIO / Life Insurance Corporation of India, Divisional Office Cell, Jeevan Jyoti Building, 18 'A' Rail Head Complex, Jammu for seeking following information:-

- 1. Kindly provide the applicant information as to whether the Financial Bid for Tender for SITC of 25 KVA (3 PH) soundless/noiseless Diesel? Generator Set (DG Set) for Branch Office Rajouri has been opened. If yes on what date and what time?*
- 2. Whether it is a fact that the applicant was informed to come on 03-01-2013 at 3 P.M for opening of the said Bid but same was not done. The applicant seeks reasons for the same and copy of the Order/office memo/notings in the office file in this regard.*

3. *If the said tender has been allotted to someone/other tenderer except the applicant than the copy of the financial bid and technical bid of the successful tenderer may kindly be provided to the applicant.*
4. *Applicant may also be provided with the copy of the Order/Letter of allotment of the said bid on the name of the successful tenderer.*
5. *Applicant wants the information as to when the said tender bids were opened and in whose presence. The names of all those tenderers present/bidders present, their names may kindly be provided to the applicant.*
6. *Applicant may also be provided access to the said Tender official file, to examine the said file under the Right to Information, if the bid has been allotted to some party.*

The Central Public Information Officer (CPIO) furnished the reply to the information seeker vide office letter dated 06-02-2013. However, the information seeker was not satisfied with the information provided to him and preferred appeal before the 1st Appellate Authority which was adjudicated and disposed of on 28-02-2013. The appellant was also advised that in case he is not satisfied with the decision of the FAA he may prefer appeal to the 2nd Appellate Authority within 90 days from the date of the decision. The appellant was also provided the address of the 2nd Appellate Authority (CIC). It would be pertinent to mention here that the application / appeal of the applicant was disposed of under the Central Act i.e. RTI Act, 2005, which is not applicable to the State of Jammu and Kashmir. All Central Institutions / Public Authorities based in the territory of the J&K State are covered under the J&K RTI Act, 2009 and the information seeker is entitled to seek the information under the State Act as a matter of right. The Respondent public authority i.e. LIC is directed to follow the State Act in future while disposing of RTI matters.

The appellant feeling aggrieved of the order of FAA thus knocked the doors of J&K State Information Commission by filing 2nd appeal which is legally justified. The perusal of the reply of PIO as well as the order passed by the FAA shows that the information provided to the information seeker is not consistent or in conformity with the RTI application. It is evident from record that the

information seeker has been wrongly denied the information on the ground that the information is exempted from disclosure U/s 8(1)(d), 8(1)(e), 8(1)(j) of the Central Act, 2005. The appellant had sought information relating to tendering process which he has not been provided. Since the bids are now open and the tender stands allotted, therefore, to ascertain any impropriety, illegality or tampering etc., the appellant has a right to have the copies of the tender bids which stand concluded. Moreover, disclosure of such information is not going to cause any harm to the competitive position of a third party, since the tendering process is over. There is also no question of breach of commercial confidence or trade secrets, since the bidding process has to be transparent, fair and clean and if there is any allegation of tampering, the appellant has a right under the J&K RTI Act, 2009 to get a copy of allotment order as well as the tender documents. Any tenderer has a right to know what rates were quoted by the successful bidder and whether there has been any tampering etc. or the blanks have been filled or not. All the documents sought by the information seeker are public document and not personal to any party, moreover to uphold the regime of transparency and accountability as envisaged in the J&K RTI Act, 2009 with the mandate to contain corruption, it is essential that transparency should be maintained in the functioning of public authorities. Therefore, it can be rightly said in the circumstances of this case that larger public interest warrants the disclosure of such information.

In view of the aforesaid facts, the PIO is hereby directed to provide the revised information to the information seeker as available in the office record free of cost within one week from the date of pronouncement of this order under an intimation to the Commission. The appellant may also be allowed the facility to inspect the record during office hours.

The appeal is accordingly disposed of.

Notice of this decision be given free of cost to the parties.

Sd/-
Dr. S.K. Sharma
State Information Commissioner

Copy to the:

1. 1st Appellate Authority / Sh. D.C. Thakur Sr. Divisional Manager, LIC of India, Divisional Office, Sonwar, Srinagar.
2. Public Information Officer / Smt. Sudesh Khoda, CRM, O/o Life Insurance Corporation of India, Divisional Office Cell, Jeevan Jyoti Building, 18 'A' Rail Head Complex, Jammu.
3. Sh. Iftikhar Khan Salaria C/o Salaria Industries, near Indira Theatre, Canal Road Jammu.
4. Guard file.

Jang Bhadur
Joint Registrar
State Information Commission