



**Jammu and Kashmir State Information Commission**

(Constituted under Right to Information Act 2009)

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**File No:** SIC-J/A/76/2013

**Decision No:** SIC-J/A/76/2013/126

Sh. Parvez Ahmad Matta                      Appellant      (Heard Through Video Conferencing)  
Through  
Sh. Karthik M. (Advocate)

Sh. Rakesh Sagar Jain                      PIO                      Present  
Registrar Judicial,  
J&K High Court,  
Jammu.

**Jammu**  
**15-05-2013**

Briefly the facts in this appeal are that Sh. Parvez Ahmad Matta R/o The Bund, Amira Kadal, Srinagar moved an application dated 02-07-2012 under J&K RTI Act, 2009 before the PIO, Jammu and Kashmir High Court, Jammu seeking the following information:-

*1. Kindly provide me all the information / documents (including petition copies, enquiries ordered, contempt petitions, CMP's and orders) for the following cases:-*

- a).      OWP No. 63/2000
- b).      LPA (OW) No. 17/2003

The PIO / Registrar Judicial, J&K High Court vide office letter no. 2089 dated 30-08-2012 informed the information seeker that as per the reports of concerned OWP & LPA (OW) sections, there is no order of any "inquiry" and also there is no "contempt petition" filed in these cases, in Jammu Wing of the

Hon'ble High Court. So far, supply of copies of abovesaid OWP & LPA (OW) is concerned, this office has made it ready, but you are required to deposit fee of Rs. 1420/- (i.e. @Rs. 10/- per page) under Rule 5 of the RTI Rules, 2009, with the Accounts Officer of this office. However, the information seeker vide his letter dated 08-09-2012 contested the payment of fee as cost of the information on the plea that as per Section 7(3) of the RTI Act the dispatch of the intimation of the fees payable referred to above should have been sent within 30 days and further submitted that PIO's letter dated 30-08-2012 is beyond the 30 days time limit. Therefore, in light of Section 7(6) of the J&K RTI Act, 2009 the information should be provided to him free of charge. The PIO controverted all these contentions of the information seeker in his letter no. 2235 dated 13-09-2012 addressed to the information seeker. The information seeker was informed that his basic application dated 02-07-2012 was received in the office of PIO on 04-07-2012. In this application the information seeker had desired to have information / documents (including petition copies, enquiries ordered, contempt petitions, CMPs and orders) for the cases OWP No. 63/2000 and LPA (OW) no. 17/2003. The information seeker was further informed that the application was carrying incomplete particulars and vide office letter no. 1737 dated 25-07-2012, he was requested as under to enable the office of PIO to understand his prayer properly:-

*"you have omitted to mention the title (name of parties of) OWP No. 63/2000 as well as of LPA(OW) No. 17/200. You are therefore requested to furnish the title of requisite OWP and LPA within the fifteen days from the receipt of this letter, enabling this office to help you appropriately."*

After receiving the aforesaid letter, the information seeker vide letter dated 04-08-2012 replied as under:-

- 1. OWP No.63/2000 before the Jammu bench of the High Court of Jammu and Kashmir relates to the case of Hajan Begum versus Union of India, Commandant, 20 Rashtriya Rifles and a Major of the 20 Rashtriya Rifles.*

2. *LPA (OW) No. 17/2003 is a separate case before the Jammu bench of the High Court of Jammu and Kashmir and relates to an appeal filed by the Union of India, Ministry of Defence through its secretary against the decision of the High Court in OWP No. 742/2001 on 31-12-2012.*

The information seeker thus corrected his application and from the date when exact particulars were received by the office of the PIO, the time period of one month started w.e.f 06-08-2012. Thus, it is apparent from the aforesaid facts that the office of the PIO vide letter no. 2089 dated 30-08-2012 supplied requisite information to the information seeker about the initiation of any "enquiry" or "contempt", much before the expiry of 30 days period, whereas for taking rest of information i.e. Xerox copies of petitions, under the rule, as a pre-requisite condition information seeker was asked to deposit the cost. The PIO has further put the record straight and has acted reasonably and diligently in the matter while informing the information seeker vide office letter no. 2235 dated 13-09-2012 about the revised fee structure which was introduced vide SRO 279 dated 30-08-2012 and the information seeker was directed to deposit the fee of Rs. 284/- i.e. Rs. 2/- per page as cost of the information.

I have heard and considered the arguments of both sides and gone through the material available on record. Undoubtedly, the applicant gave only the nos of cases regarding which he sought the information and thus, applicant was under a genuine conviction that his application was complete and all the formalities as required under the J&K RTI Act, 2009 have been complied with. On the other hand a reasonable explanation has been offered by the PIO, that the information relating to payment of cost of information was given to the applicant within the time frame as laid down under the Act and argued that 2<sup>nd</sup> appeal be dismissed.

Looking to the stand taken by both the parties, it is apparent that the fault does not lie upon either of them. Keeping in view the facts and circumstances of the matter in hand and also looking into the object of the

Act which aims at promoting transparency and accountability in the working of every public authority and also intends to contain corruption and to hold government and its instrumentalities accountable to be governed, the right to information acquires a pre-eminent position in the list of fundamental rights. Therefore, it becomes the duty of the Commission to safeguard this right as a ***sentinel on qui vive*** and ensure that this right does not become a scapegoat at the altar of legal technicalities. A liberal interpretation will meet the objectives enshrined in the Act.

The PIO is hereby directed to furnish the information to the information seeker free of cost within 7 days from the date of receipt of this order under an intimation to the Commission.

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. Public Information Officer / Sh. Rakesh Sagar Jain, Registrar Judicial, J&K High Court, Jammu.
2. Sh. Parvez Ahmad Matta R/o The Bund, Amira Kadal, Srinagar.
3. Guard file.

**Jang Bhadur**  
Joint. Registrar  
J&K State Information Commission