



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/C/51/2013
Decision SIC/J/C/51/2013/191

Sh. Vilakshana Singh Advocate	Complainant	Present
Dy. Chief Electoral Officer, Rail Head Complex, Jammu.	PIO	Absent

Jammu
12-07-2013

Briefly the facts in this appeal are that Sh. Vilakshana Singh Advocate R/o Sidhra By pass Opposite Eicher Workshop Sidhra moved an application dated 04-05-2013 under J&K Right to Information Act, 2009 before the PIO O/o Chief Electoral Officer, Srinagar seeking the following information:-

- i. Kindly supply me the names of the persons elected as MLAs in J&K on the ticket of Indian National Congress since 1996 till date. Also state the names of their respective constituencies and the years in which they were so elected.
- ii. Kindly supply me the certified copies of the affidavits, as to the assets and liabilities, filed by the above said persons elected as MLAs on the ticket of Indian National congress before the Returning Officer in the J&K assembly elections held in the following years:-
a.1996 b. 2002 c.2008 d. any other year since 1996 in which bypolls were held.
- iii. Kindly supply me the names of the candidates elected as Members of Parliament (Lok Sabha as well as Rajya Sabha) from State of J&K on the ticket of Indian National Congress since 1996 till date. Also state the names of their respective constituencies and the years in which they were so elected.

- iv. Provide me the certified copies of the affidavits, as to the assets & liabilities, filed by above said candidates elected as Member of Parliament (Lok Sabha as well as Rajya Sabha) on the ticket of Indian National Congress before the Returning Officer in the each of the elections held in the state since 1996 till date.

The complainant has alleged that respondent PIO has transferred point (iv) of the RTI application filed by him to the Secretary Legislative Assembly. Whereas the information sought by the complainant vide point (iv) of the application is held by the Secretary Legislative Assembly in his capacity as Returning Officer appointed under the J&k Representation of People Act and not in the capacity of Secretary Legislative Assembly as such and the said information pertains to the Election Department and not to the J&K Legislative Assembly. Perusal of the complaint filed by the complainant shows that PIO can have resort to section 6(3) only in case the information is held by another Public Authority. That in the present case, PIO as well as District Election Officers are the part of the same Public Authority and hence the District Election officers do not constitute separate Public authority and hence no part of the RTI application could be transferred to the District Election Officers under section 6(3) of the J&K RTI Act, 2009. The right course in the present circumstances for the PIO was to have resort to the provisions of section 5(4) of the J&K RTI Act, 2009.

The Dy. Chief Electoral Officer/PIO is not himself a Public Authority. He is the PIO of the Public Authority and as such is himself responsible for providing the information to the complainant and he cannot delegate his duties. The information sought by the complainant as far as point (ii) is concerned cannot be said to be not held by the Chief Electoral Officer as the Chief Electoral Officer is overall custodian of all the election activities in the state and the records thereof. Transfer of RTI application or parts thereof in section 6(3) of J&K RTI Act, 2009 leads to multiplicity of litigation and renders section 5(4) and section 5(5) of J&K RTI Act, 2009 infructious . In the instant case, the District Election Officer has failed to provide information to the complainant. The Complainant shall have to file 22 first appeals which would disproportionately divert the resources of public authority and cause loss of the Public exchequer as well as public time. Further, if the FAAs fail to pass correct orders then 22 second appeals shall be filed before the State Information Commission which shall further waste the precious time of the Commission as well.

In view of the aforesaid facts and legal position, the respondent PIO/ Dy. Chief Electoral Officer Jammu and Kashmir is hereby directed to himself provide the requisite information in respect of point (ii) and (iv) raised in RTI application within 3 weeks from the date of receipt of this order under an intimation to the Commission.

The complaint 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 :

1. The Public Information Officer/ Dy. Chief Electoral Officer, Rail Head Complex, Jammu.
2. Sh. Vilakshana Singh Advocate R/o Sidhra By pass Opposite Eicher Workshop Sidhra.

(Khalid A. Shah)

Dy. Registrar,

J&K State Information Commission