



**J&K 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. 0191-2520970, 2520937

www.jksic.nic.in

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File No: SIC/J/A/194/2013  
Decision No SIC/J/A/194/2013/312

|   |           |         |
|---|-----------|---------|
| Dr. Amit Sharma   | Appellant | Present |
| Sh. Rajesh Sharma<br>Section Officer (Legal)<br>O/o SMVDU University,<br>Katra. | PIO       | Present |

**Jammu  
16-09-2013**

Briefly the facts in this appeal are that Dr. Amit Sharma S/o Sh. Rajesh Sharma R/o Nai Basti Kana Chak, Akhnoor Road Jammu moved an application dated 17-04-2013 under J&K Right to Information Act, 2009 before the PIO, SMVDU University, Kakrayal, Katra (J&K) seeking the following information:-

1. Certified true copy of the Minutes of the meeting/proceedings, recorded on 12-03-2013 (A.N) duly signed by the u/s, Prof. V.Verma (Dean COE) and Mr. Vinod Sharma followed by necessary corrections by the HVC. These proceedings were held in response to letter No. SMVDU/COE/2013/223-24 dated 06-03-2013 issued by Prof. V. Verma as Inquiry Officer. Kindly provide a copy of associated notings (with said minutes) also as made by the HVC

and Registrar including any other University official to whom said minutes were marked.

Also provide a copy of relevant page of Dispatch and Receipt Register as maintained by each office where its (said minutes copy) record has been maintained during official communication from one quarter to other.

2. Copy of letter NO:SMVDU/COE/2013/225 Dated 12-03-2013 and copy of associated notings to it, as made by the HVC and Registrar including any other University official to whom it was marked.

Further provide a copy of relevant page of Dispatch and Receipt Register as maintained by each office where its record has been maintained, during official communication (of SMVDU/COE/2013/225 Dated 12-03-2013) from one quarter to other.

3. Copy of the file notings by the HVC, Registrar or any other University Official adopted as basis for the issuance of Office Order:

- i. NO:SMVDU/Estt./13/9575-80 Dated 28-02-2013
- ii. NO:SMVDU/Estt./13/171-74 Dated 12/04/2013

Including a copy of the report of the Inquiry Officer (Prof. V. Verma) considered in each case respectively.

4. Copy of the action taken by the Inquiry Officer Prof. V. Verma and HVC, in form of their notings respectively, including those made by the officials to whom my representation No. SMVDU/SALD/2013/AS(AP)/72 Dated 12-03-2013 was subsequently marked.

5. Copy of the action taken as available on the record in form of noting made by the HVC and Registrar, including the notings made by the associated officials to whom each representation was marked subsequently, in case of following representations as submitted by the u/s:
- |       |                           |                  |
|-------|---------------------------|------------------|
| i.    | SMVDU/SALD/2013/AS(AP)/77 | Dated 11/03/2013 |
| ii.   | SMVDU/SALD/2013/AS(AP)/74 | Dated 06/03/2013 |
| iii.  | SMVDU/SALD/2013/AS(AP)/73 | Dated 13/02/2013 |
| iv.   | SMVDU/SALD/2013/AS(AP)/71 | Dated 04/02/2013 |
| v.    | SMVDU/SALD/2013/AS(AP)/69 | Dated 28/01/2013 |
| vi.   | SMVDU/SALD/2013/AS(AP)/67 | Dated 24/01/2013 |
| vii.  | SMVDU/SALD/12/AS(AP)/17   | Dated 16/05/2012 |
| viii. | SMVDU/SALD/12/AS(AP)/18   | Dated 28/05/2012 |
6. Copy of the order/noting by the Competent Authority for:
- Not releasing annual increment due in year 2012 to the u/s or its effect in the release of monthly subsistence allowance paid from July 2012 onward.
  - Not releasing till date the arrears due to pay revision to the u/s, as paid in January, 2013 to other employees of the university in response to Notification No. SMVDU/Adm/12/8749-51 Dated 01-01-2013.
7. Copy of the approval made by then HVC Prof. R.N.K Bamezai through file noting/any other official document for placing the services of the u/s under direct suspension in response to which **Suspension Order** was drafted and subsequently issued by the Registrar on 31-05-2012.
8. Copy of Order/directions issued by then HVC Prof. R.N.K Bamezai in writing for placing the services of the u/s under direct

suspension in response to which **Suspension Order** was drafted and subsequently issued by the Registrar on 31-05-2012.

Applicant and PIO were present before the Commission. The matter was heard on 16-09-2013 and the judgment was reserved which was delivered on 01-10-2013.

The perusal of the record shows that the reply was furnished to information seeker on 16-05-2013 wherein he was informed that information sought in respect of S.No. 01, 02, 03, 04, 07, and 08, of above mentioned RTI application is exempted from disclosure under section 8(1) (g) of RTI Act 2009, as the same relates to an on going investigation/inquiry for which the report is yet to be submitted and considered by the competent authority. With regard to S.No. 5 the applicant was directed to indicate the subject matter of representation and its receipt in SMVDU. In reply to S.No. 6, information seeker was informed that order of releasing increment is under consideration before the competent authority.

Aggrieved of the aforesaid reply of the PIO, applicant filed 1<sup>st</sup> appeal before Registrar 1<sup>st</sup> Appellate authority (SMVDU) on 20-05-2013 The 1<sup>st</sup> Appellate Authority disposed of the appeal of the applicant and declined to interfere with the order passed by the PIO.

Applicant filed 2<sup>nd</sup> appeal before the Commission on 31-07-2013. Seven days notice was issued to PIO SMVDU on 5-08-2013 for filing reply in 2<sup>nd</sup> appeal.. On 22-08-2013 notices were issued to PIO and applicant for causing their presence before the Commission on 30-08-2013. In response to this Commission hearing notice dated 22-08-2013 , PIO submitted its reply on 11-09-2013 wherein he has stated that the information sought by the applicant is exempted from disclosure under section 8 (1) (g) of RTI Act 2009, as the same relates to ongoing inquiry/investigation.

In reply to S.No1,2,3,4,7 and 8, PIO has stated that information was denied to appellant as being exempted from disclosure under section 8(1)(g)

of RTI Act, 2009 as same relates to an ongoing investigation/inquiry. The PIO in his counter reply has stated that the appellant was also communicated decision of the Central Information Commission passed in an appeal no. CIC/AT/A/2009/00200 Dated 30.06.2009 titled SH.Y.R IYER V/S CUSTOMS DEPARTMENTS, wherein Hon'ble Central Information Commission has made following observations.

"When requests are made for a whole-sale disclosure of all enquiry-related files, the Commission has to be on its guard for the disclosure authorized in such matters may produce the effect of delaying, derailing or impeding the enquiry process, which will embolden and encourage errant employees to use RTI Act to achieve their personal ends. The preamble to the RTI Act very clearly enjoins that the provisions of the Act has to be used to combat corruption of all variety. Free access to employees to documents relating to enquiries against them has the potentiality to defeat the purpose of the RTI Act as well as of enquiry against the employee. This calls for careful application of mind about disclosure of this variety of information."

PIO in his counter reply has stated that applicant being not satisfied with the reply provided filed appeal before the First Appellate Authority. The First Appellate Authority has declined to interfere with the order passed by PIO. The First Appellate authority while declining to interfere with PIOs order has relied upon the order passed by Apex Court in special leave petition(Civil) no.27734of 2012 titled GIRISH CHANDER DESHPANDE V/S CIC &ORS where in Hon'ble Supreme Court has made following observations.

The performance of an employee in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by service rules which fall under the expression personal information ,the disclosure of which has no relationship to any public activity

or public interest. Of course, in a given case, if the CPIO or State Public Information officer of the appellate authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner (applicant) cannot claim those as a matter of right.

PIO in his reply has stated that information seeker was directed to provide subject matter of representations in respect of information sought of point 5. The information seeker was informed that information with regard to point 6 for release of arrears is under active consideration of competent authority.

I have perused the reply filed by the FAA and PIO. The perusal of record reveals that the applicant had filed an RTI application for seeking information under section 6 of RTI Act 2009. The information was declined by the PIO to information seeker on the ground that the information is exempted under section 8 (1) (g). The FAA and PIO have in support of their contentions relied upon the judgments passed by various Courts including Apex Court.. . The PIO had rightly denied the information to the information seeker because when the RTI application was filed the inquiry was pending against the information seeker which was subsequently completed and after completion of inquiry there is no justification in withholding the information.

The perusal of the documents available on record show that the inquiry against the appellant was to be completed by 13<sup>th</sup> of May, 2013 and he has also been chargesheeted. Thus there is no legal hindrance in providing the information sought at S. No. 1,2,3,4,7 and 8 of the RTI application which was denied as being exempted from disclosure under Section 8 (1)(g) of the RTI Act, 2009 due to pendency of inquiry against the information seeker.

In respect of information sought at S.No.5. the applicant is directed to indicate the subject matter of representations and its receipt in SMVDU to enable the PIO to furnish the same. The information cannot be denied to the

information seeker solely on the ground that it is personal information related to the appellant himself only having no relationship to any public activity or interest. Information sought at serial No.6 of the RTI application has been sufficiently conveyed to the information seeker as per office record.

In view of the aforesaid facts and observations, the PIO is hereby directed to dispose of the RTI application of the information seeker and also provide him the requisite information subject to its availability in the office record maintained by the University within three weeks from the date of receipt of this order under an intimation to the Commission. The appellant is also directed to apprise the Commission about the constructive purpose for which he may be using this information within one month from the date of receipt of information.

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 :-

1. First Appellate Authority/Registrar, SMVDU University (Kakryal), Katra.
2. Public Information Officer / Sh. Rajesh Sharma, Section Officer, SMVDU University(Kakryal) Katra.
3. Dr. Amit Sharma S/o Sh. Rajesh Sharma R/o Nai Basti Kana Chak, Akhnoor Road Jammu.

(Khalid A. Shah)  
Dy. Registrar  
J&K State Information Commission