



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-249 /2013

Decision No: SIC-J-A-242/2013/339

Sh. Arun Sharma	Appellant	Present
Sh. Abdul Rauf Lone Superintendent of Police, Hqrs. Jammu.	PIO	Present

**Jammu
31-10-2013**

Briefly the facts in this appeal are that Sh. Arun Sharma C/o Indian Express 7B/C, Gandhi Nagar, Jammu moved an application dated 3-07-2013 before the PIO/Dy. Superintendent of Police, (Hqrs), Jammu under RTI Act, 2009 seeking the following information :-

- 1. Please inform when was Sanaullah, son of Rehmat Ali, resident of Dalowali village in Sialkote district of Pakistan, arrested by police for the first time.*
- 2. Under what charges he was arrested and which police station had arrested him.*
- 3. Whether any challan was filed against him by the police in any court.*
- 4. Please inform whether he was arrested by police second and third time also and under what offences.*
- 5. In case of his apprehension second and third time also, please mention which police station had arrested him and under what charges.*
- 6. Please inform the dates, months and years of his apprehension for the second and third time.*

7. *Whether he was convicted by the court. If so, please mention the name of the court awarding him the sentence and the date alongwith year when it was announced.*
8. *Please inform the period of his sentence and from which date it started.*
9. *Whether he had completed his sentence and if so, was he ever repatriated to Pakistan.*
10. *Please inform whether Sanaullah was ever detained under PSA and the grounds under which he had been detained.*

The PIO/ Dy. Superintendent of Police, (Hqrs), Jammu vide office letter no. RTI/2013/107/2481-82 dated 03-08-2013 informed the information seeker that the information so sought cannot be disclosed and the same is not personal information and the disclosure of which has no relationship to any public activity or interest and would cause unwarranted invasion of the privacy of the individual and as such the information is exempted from disclosure under the provision of Section 8(1)(i) of J&K RTI Act, 2009. Feeling aggrieved of the aforesaid reply of the PIO, the information seeker filed 1st appeal dated 07-09-2013 before the Superintendent of Police, Hqrs, Jammu. The 1st Appellate Authority vide office no. 9575-76/SPhqrj dated 20-09-2013 informed the information seeker that the reply has already been provided by the PIO/Dy. Superintendent of Police, (Hqrs), Jammu and the said reply is well founded.

The information seeker thus feeling aggrieved of the orders passed by the PIO as well as the FAA filed 2nd appeal dated 10-10-2013 before the Commission in which he has alleged that the order of the PIO is self-contradictory. On one hand, it admits that the information sought is not personal information and on the other hand, it says that the information is exempted under provisions of Section 8(1)(i) of J&K RTI Act, 2009 as it would cause unwarranted invasion of the privacy of the individual. The appellant further submitted in his appeal before the Commission that he had not sought any personal information about the Pakistani prisoner in a jail in Jammu. The information sought pertains to when he was arrested

by police for the first time; under what charges he was arrested; or whether he was ever repatriated to Pakistan by J&K Police and further submitted that information so sought can under no circumstances fall under the category of personal information.

After receiving 2nd appeal, the Commission vide office notice no. SIC/J/A/249/2013/4188-89 dated 22-10-2013 directed the PIO to file counter reply and also provide a copy to the appellant and the matter was listed for hearing on 31-10-2013 at Jammu office of the Commission. The PIO in compliance to the aforesaid notice filed counter statement/reply vide no. RTI/2013/107/3328 dated 28-10-2013 in which he has taken the stand that the information sought is exempted from disclosure under the provisions of Section 8(1)(i) of J&K RTI Act, 2009.

During the course of hearing held today, the appellant pleaded before the Commission that the information sought by him is no where personal information of an individual which would cause unwarranted invasion of the privacy of someone. The factual matrix of the information sought by the information seeker clearly reveals that it is nowhere exempted from disclosure as mandated U/s 8(1)(i) of the J&K RTI Act, 2009. Section 8(1)(i) reads as under:-

"(i) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.

Provided that the information which cannot be denied to the Parliament or the State Legislature shall not be denied to any person".

In the given circumstances the question posed before the Commission is whether the information sought by the appellant can be denied to the Parliament or the State Legislature. The answer will definitely be that it cannot be denied to the Parliament or the State Legislature therefore, such information which cannot be denied to the Parliament or the State Legislature cannot be denied to any person. The appellant is entitled to claim such information as a matter of right

guaranteed to him under the RTI Act. In view of the aforesaid observations, the PIO is hereby directed to furnish the requisite information to the information seeker as per office record within 15 (Fifteen) 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:-

4. Public Information Officer / Sh. Abdul Rauf Lone, Superintendent of Police, Hqrs. Jammu.
5. Sh. Arun Sharma C/o Indian Express 7B/C, Gandhi Nagar, Jammu.

(Khalid. A. Shah)
Dy. Registrar
State Information Commission