



J&K State Chief Information Commissioner
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Wazarat Road, Jammu. Fax No: 0191-2520947, 2520927

File No. SIC/CO/SA/103/2014/

Decision No. SIC/CO/SA/103/2014/624

Title: Shri Khurram Parvaiz

V/S

- 1. First Appellate Authority, Home Department, Civil Secretariat,
J&K, Jammu.**
- 2. Public Information Officer, Home Department, Civil Secretariat,
J&K, Jammu.**

Jammu

22-04-2014

This is a 2nd Appeal filed by Shri Khurram Parvaiz, Advocate R/o H.No.1, Gupkar Road, Srinagar against the order of First Appellate Authority, Home Department, Civil Secretariat, J&K, Jammu, passed on 19-09-2013. As the appeal raised certain important questions of law and facts, therefore, a Division Bench was constituted, comprising of G.R.Sufi, Chief Information Commissioner and Dr. S.K.Sharma, State Information Commissioner. The Special Secretary-cum-FAA, Home Department, Civil

Secretariat, Shri Arshad Ayoub attended the Commission. The brief grounds of the appeal raised by the appellant were discussed with him threadbare.

The brief ground of the appeal are that the appellant filed an RTI application before PIO, Home Department, Civil Secretariat on 12-01-2012, seeking following information;

"We request all information and documents be provided to us relating to the inquiries ordered and / or conducted by the Government of Jammu and Kashmir, including inquiries under the Commissions of Inquiry Act, 1962 and magisterial inquiries, between 1990 and 2011, including the following;

1. Number and details of inquiries.
2. Names of the accused persons and their designation / units.
3. Results of the inquiries including the recommendations / findings.
4. Resultant consequences on accused persons found guilty in the inquiries.
5. Details of the incidents alleged / found to have been committed.

During the course of proceedings, the FAA, Home Department had taken the plea that the information sought by the appellant would lead to incitement of offence by certain elements as well as endangering the physical safety of the persons and impeding the process of investigation. Hence, the PIO's order of denying information was upheld. However, these findings of PIO and FAA have been challenged by the appellant. It was further narrated by FAA that disclosure of information regarding some inquiries could threaten security, sovereignty and integrity of the State. The appellant, however, has pleaded for disclosure of information and argued that refusal of the making public these inquiries pertaining to human rights violations in no way can be classified under any exemption for non disclosure as it undermines the essence of J&K RTI Act and also the constitutional responsibility of the State to protect and promote

the human rights of the people. The Commission has heard FAA and PIO from time to time, who cooperated with the Commission through their presence and written submissions. However, the appellant in spite of being informed many a times to appear before the Commission to assist Commission to arrive at an appropriate decision, did not render any such assistance.

The Commission has gone through RTI application, the orders passed by the PIO and FAA and the status report presented before the Commission by FAA, during the course of proceedings today. After considering the facts and material on record, the Commission holds as under;

“ The Commission does not agree with FAA and PIO that giving mere number of inquiries is hit under section 8 and there are no cogent reasons given by these authorities for non disclosure of this information. Therefore, the information on point 1 is ordered to be disclosed. The appellant has in 2nd point of information desired disclosure of names of accused persons and their designations / units. The Commission agrees with FAA that non disclosure of this information is securely covered under section 8(1)(f), hence Commission on upholding the decision of FAA in this regard dismisses the request of appellant for such disclosure. The appellant has in point 3 of application asked for results of inquiries including recommendations / findings. Again the Commission does not find justifiable reasons in FAA’s order for withholding this information. The FAA is directed to issue direction to PIO to disclose such information. This type of information is covered under section 3 read with section 7 of the Act. Similarly, there are two other points of information, which are with regard to resultant

consequences on accused persons found guilty in the inquiries and details of incidents alleged / found to have been committed. The Commission has considered the nature of information and refusal of FAA to provide this information, invoking section 8 of the Act. The Commission does not consider that the details of incidents if given will result in any kind of breach of peace which may in turn have affect on security of the State or endanger life or physical safety of the persons. Similarly it will not attract section 8(1)(g). The FAA is therefore directed to issue directions to the PIO to disclose information regarding such incidents without mentioning names of the officers / units, held guilty by inquiries, in view of section 8(1)(f).

The appeal is accordingly is accordingly disposed of.

Sd/-
(Dr. S.K.Sharma)

State Information Commissioner

Sd/-
(G. R. Sufi)
Chief Information Commissioner

Copy to the:-

1. First Appellate Authority, Home Department, Civil Secretariat, J&K, Jammu.
2. Public Information Officer, Home Department, Civil Secretariat, J&K, Jammu.
3. Shri Khurram Parvaiz, Advocate R/o H.No.1, Gupkar Road, Srinagar (Appellant).
4. Pvt. Secretary to HCIC.
5. Guard File.

(G.Q.Bhat)

Registrar,

J&K State Information Commission.