



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

File No. SIC/CO/SA/190/2014/
Decision No. SIC/CO/SA/190/2014/701

Title: Shri Suresh Singh

V/S

- 1. First Appellate Authority, Police Headquarter, J&K, Jammu.**
- 2. Public Information Officer, Police Headquarter, J&K, Jammu.**

Jammu
09-12-2014

This is a 2nd appeal filed by Shri Suresh Singh, a resident of the State in this Commission against the orders of PIO and FAA of Police Headquarters, J&K, Jammu. Case was heard from time to time and the Commission heard the case last on 09-12-2014, wherein, Shri Rajeshwar Singh, AIG (Welfare)-cum-PIO, PHQ, J&K, Jammu and Shri Rahul Bahu, Advocate appeared on behalf of the appellant.

Brief facts and grounds of the appeal are that the appellant filed an RTI application before the PIO, O/o Director General of Police, J&K on 13-03-2014, seeking following information;

1. Please provide the list of candidates who participated and were declared failed/not selected in the on spot recruitment drive for the post of Constable held near Village Nikyean, Khour Block, Jourian, Jammu on 29-08-2011.
2. Please provide the complete record evidencing the factum of the candidates who have applied and got rejected/not selected and the candidates who have applied and got selected.
3. Whether any register/document has been maintained by the Selection Committee conducting the recruitment drive vis-à-vis candidates who have applied and got selected and whether any signatures have been taken by the candidates who have participated in the Selection process and got rejected.
4. Please provide the list of candidates who have participated and got rejected for the recruitment rally held near Village Nikyean, Khour Block, Jourian, Jammu on 29-08-2011.

PIO passed an order on 16-04-2014 informing the appellant the "during on spot recruitment drive, list of only selected candidates is being maintained. Similarly, in on spot recruitment process held at Nikyeen Khour on 29-08-2011, list of selected candidates was maintained copy of which has already been provided to you vide this Office Letter No. PHQ/RTI/85/2013/693 dated: 20-07-2013. No any information / list is available with this headquarter as intimated by the concerned branch of PHQ, beyond the one mentioned above." Not satisfied with the order of the PIO, appellant preferred first appeal before the FAA on 15-05-2014. FAA disposed of the first appeal on 29-05-2014 holding that no more information was available with the department except provided by the PIO. Again aggrieved of the order of FAA, appellant filed 2nd appeal in this Commission on 26-08-2014, praying therein to issued directions to the PIO / FAA, PHQ, J&K to provide the requisite information and also take action under Section 17 of the State RTI Act, 2009. During the hearing on 20-11-2014, PIO had informed the Commission that the appellant did not attend on spot recruitment drive as is indicated from the list prepared by different officers present on spot whereas appellant in turn submitted that his proof of attendance was supported by statements of Panch and Sarpanch concerned who have submitted affidavit in this behalf. PIO was directed to explain why penalty under Section 17 of the Act may not be imposed on him for not giving information to the information seeker. Besides, PIO was advised to inform the Commission whether Hon'ble High Court was later on given any clarification with regard to information maintained of the participants and rejected candidates. During the hearing, PIO briefed the Commission about the on spot recruitment drive and maintained that only the list of selected candidates is prepared and no list of left out candidates was maintained because of heavy rush of people because this was the process of on spot recruitment and no application forms, etc were invited from the people. Announcements were made on the directions of Cabinet Decision which was conveyed to the Director General of Police by the Special Secretary to Government, Home Department, Civil Secretariat, J&K vide Letter No. Home/GB/05/2010 dated: 08-01-2010 which is reproduced as under;

" The State Police will undertake special recruitment drives, in the under-represented areas in the State, for completing the recruitment process at the level of constabulary in a time bound

manner. The Home Department shall consider relaxation in the prescribed minimum educational qualification from "matriculation" to middle pass in all hard case."

PIO also produced a letter written to Sr. Additional Advocate General J&K, Jammu bringing to his notice necessary correction/amendment if required to be made in already filed objections may be considered. Counsel for the appellant urged the Commission to give a thick direction under Section 16(9) of the J&K RTI Act, 2009 to the public authority, i.e, Director General of Police, J&K, Jammu to ensure systematic improvement and transparency in the system of recruitment of people because this recruitment process is linked to fundamental right of the people.

The Commission after hearing both the parties and while going through the relevant records produced before it has reached to the conclusion that there was no deliberate or malafide attempt by the PIO to give incorrect information or false information. The appellant who himself was present during the hearing while being asked certain questions did not sound confident about his attendance in the on spot recruitment drive. Appellant did not even recognize PIO Mr. Rajeshwar Singh, who claimed to have been present during the on spot recruitment drive. Therefore, there was no conclusive proof that the appellant had attended the on spot recruitment drive programme. The Commission however, appreciates the arguments put forward by the Ld. Counsel of the appellant Mr. Rahul Bahu, Advocate that a direction under Section 16(9) be issued to the public authority, i.e., Director General of Police, J&K, Jammu to take any such steps as may be necessary to secure compliance with the provisions of the Act for ensuring transparency and accountability in the system of recruitment which affects common people. The Commission would like to draw attention of DGP, J&K, Jammu to Section 16(9) (a) of J&K RTI Act, 2009 which requires the public authority to take any such steps as may be necessary to secure compliance with the provisions of the Act, including;

- (i) By providing access to information, if so requested, in a particular form;
- (ii) By publishing certain information or categories of information;
- (iii) By making necessary changes to its practice in relation to the maintenance, management and destruction of records;

The law thus makes it quite clear that the intend and purpose of the RTI Act is to bring transparency and accountability in almost every aspect of working of the public authorities. Recruitment of lower posts in J&K State is an important area which requires the maximum transparency and accountability. In this age of transparency, it is inconceivable to visualize a system which is opaque and do not encourage such transparency and accountability. The common masses have aspirations and hopes to get a government job because the government is still perceived by common masses to be a bigger employer and thus a source of livelihood. The public authorities who are vested with enormous power to make such recruitments and that too in a situation like on spot recruitment drive have to realize that they are vested with sacred powers and responsibilities for maintaining highest degree of transparency and accountability to accord due regard, respect and concern for the hopes and aspirations of the common masses who are qualified and desirous of getting such jobs. The State Cabinet Decision No. 157/13/2009 dated: 04-12-2009 is a response to a particular situation with purpose to give representation to the under-represented areas in the State for completing the recruitment process at the level of Constabulary in a time bound manner. This order has been followed by Director General of Police, J&K, Jammu. However, Commission is of the opinion that the J&K RTI Act, 2009 was already been in operation since March, 2009, therefore, it would have been appreciable if the steps to ensure transparency and accountability in the process of on spot recruitment and other such drives would have been devised. Under these circumstances, the Commission directs Director General of Police, J&K, Jammu to keep in view above provisions of law to ensure that a mechanism is devised whereby attendance of the such recruitments drive duly recorded and recruitment made in a transparent manner, so as to ensure transparency and accountability in the system.

The 2nd Appeal is accordingly disposed of.

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

Copy to the:-

1. Chief Secretary, J&K, Government, Civil Secretariat, J&K, Jammu.
2. Chief Vigilance Commissioner, State Vigilance Commission, J&K, Jammu.
3. Director General of Police, J&K Jammu
4. Divisional Commissioner, Jammu.
5. Director Vigilance, State Vigilance Organization, J&K, Jammu.
6. Inspector General of Police (Crime Branch), J&K, Jammu.
7. First Appellate Authority, Zonal Headquarters, Crime Branch, Jammu.
8. Public Information Officer, Zonal Headquarters, Crime Branch, Jammu.
9. Shri Om Prakash S/o Shri Dhani Ram R/o Narain P/o Kandoli, Nagrota, Jammu (Appellant).
10. Pvt. Secretary to HCIC.
11. Guard File.

(G.Q.Bhat)
Registrar,
J&K, State Information Commission