



J&K State Chief Information Commissioner
Old Assembly Complex, Srinagar. Fax ;0194-2484268,2484269
Wazarat Road, Jammu. Fax No: 0191-2520947, 2520927

File No.SIC/CO/Comp/82/2013
Decision No.SIC/CO/Comp/82/2013/567

Title:- Shri Irshad Ahmad Dar S/o Shri Gulam Ahmad Dar R/o Arch Ganderbal.

V/s

1. Sr. Superintendent of Police (CID SBK),
First Appellate Authority,
CID Headquarters, J&K, Srinagar.
2. Deputy Superintendent of Police (CID SBK),
Public Information Officer,
CID Headquarters, J&K, Srinagar.

Jammu
15-1-2014

This is complaint filed by Shri Irshad Ahmad Dar, a resident of the State before this Commission. The brief facts and grounds of the appeal are that the complainant has filed RTI application before the PIO, CID SBK, Srinagar on 4-6-2013 seeking f information:-

1. Furnish Xerox copies of dispatched register of DSP SBK Office, Ganderbal and SBK Section Ganderbal and also furnish Xerox copy of enquiry file held by your Department against the Sg.ct. Abdul Aziz Mir in 2010 against illegal gratification demanded by him (From 1st. October 2009 to 17th February, 2010).

(2)

The present PIO Shri Muzaffar Ahmad Shah, Dy. S.P attended and he was heard. The complainant Shri Irshad Ahmad Dar was also heard through Video Conference. The PIO informed the Commission that an order under SBK/Estt/13/3847 dated 11-6-2013 was passed informing the complainant that "CID Department/Organization is an Organization kept out of purview of RTI Act 2009 by virtue of SRO 86 dated 12-3-2012 issued by the State Government." The complainant has submitted before this Commission that he had filed an RTI application to PIO (DSP, Headquarter, CID Wing SBK) on 4-6-2013 for furnishing information regarding departmental enquiry against Sgct. Abdul Aziz Mir for demanding illegal gratification in 2010 and Xerox copies of dispatch register of DSP Ganderbal and SBK Section Ganderbal. However, the PIO refused to accept the said RTI application. The appellant later on filed first appeal before the FAA i.e S.S.P, CID SBK, Srinagar for ordering the disclosure of information but he also refused to furnish the information on the plea that CID was kept out of purview of RTI Act. However, no documentation was submitted by the appellant authenticating that first appeal was filed by him which was not responded. Hence, the Commission has treated the complainant's communication to the Commission as a complaint. The complainant has further stated that SRO 86 dated 12-3-2012 keep CID Organization out of purview of RTI Act but cases related to Corruption and Human Rights Violation are not kept out of purview of RTI Act. Hence, complainant has requested the Commission for directions to order for disclosure the information and also initiate proceeding against the PIO and FAA for not complying with the statutory obligations cast of them under sections 8 and 16 of the State RTI Act read with Section 3 and 6.

(3)

The Commission has considered submissions of the complainant and PIO's written submission under No.SBK/Estt/RTI/14/152 dated 11-1-2014. The Commission has noted that PIO and FAA have not gone through the provisions of State RTI Act. No doubt there is an SRO as referred above which keeps CID Organization out of purview of State RTI Act 2009 issued under the provisions of section 21 of State RTI Act. The PIO and FAA should have carefully gone through provision of section 21 of State RTI Act. Had they done so, they would find that information relating to allegations of corruption and human rights violation have not been excluded under section 21. This section also clearly laid-downs the mechanism for providing such information which has not been unfortunately followed by FAA and PIO. The basic purpose and rationale laid-down in the preamble of the Act which is laid down as under:-

“An Act to provide for setting out the regime of right to Information for the people of the State to secure access to information under the control of the public authorities, in order to promote transparency and accountability in the working of every authority, the constitution of a State Information Commission and for matters connected therewith or incidental thereto.”

Containing and eradicating corruption is the focus of this Act which is highlighted in the preamble in the following words:-

“ Whereas, democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Government and its instrumentalities accountable to the governed.”

(4)

Therefore, the information which concern occurrences of corruption cannot be suppressed because that would negate the relevance of the Act. However, PIO has to ensure that no such information is prohibited for disclosure under any provision of Section 8 of the State RTI Act. The PIO during the hearing was also informed that Commission had already passed a detailed order in the case of Shri Mohd Ahsan Untoo V/s IGP CID, J&K Jammu issued under No.SIC/Co/Comp/74/2012-368 dated 19-12-2012. Accordingly the Commission had pronounced in the open court on 15-1-2014 that PIO will pass a speaking order disclosing information. Speaking order means that the PIO has to meet the requirements laid-down in section 21 and section 8 of the State RTI Act within 8 days. The speaking order also means that PIO has to fulfill the mandate given to him under section 7(8) of the State RTI Act. PIO is required to explain reasons why penalty under section 17 may not be initiated as the so called order dated 11-6-2-13 as relied by the PIO is not an order in the eyes of law.

Appeal/complaint is accordingly disposed of subject to the above conditions.

Sd/-
G.R.Sufi,
State Chief Information Commissioner.

Copy to the:-

1. Principal Secretary & Secretary to Government, Home Department, Civil Secretariat, Jammu.
2. Director General of Police, J&K, Jammu.
3. DIG, CID J&K, Jammu.
4. Sr. Superintendent of Police/FAA, CID SBK, Srinagar.
5. DSP/PIO, CID Headquarter, J&K, Srinagar.
6. Shri Irshad Ahmad Dar S/o Shri Gulam Ahmad Dar R/o Arch Ganderbal.
7. Guard file.

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