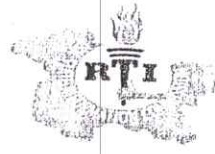


(61)

FR/62,63
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Jammu and Kashmir State Information Commission
شہنیشن کمیٹی انفارمیشن اسٹیٹسٹو کشمیر
(Constituted under the Right to Information Act, 2009)
Wazarat Road, near DC Office Jammu, 0191-2520947, 2520937
Old Assembly Complex, Srinagar, 0194-2506660, 2506661
www.jksic.nic.in

File No. SIC/J/A/96/2017
Decision No. SIC/J/A/96/2017/

Final Order

Appellant : Sh. Shiv Shanker Sharma
R/o. Village Karayara,
P.O. Hiranagar-184142.

Respondent : First Appellate Authority (FAA)/
Public Information Officer (PIO) O/o. Border Roads
Task Force, C/o. 56 APO.

Date of Registration : 08.03.2017

Date of Decision : 12.06.2017

Brief Facts:

This is a second appeal filed under section 16 (4) of the J&K Right to Information Act, 2009 in the J&K State Information Commission by one Sh. Shiv Shanker Sharma, R/o. Village Karayara, P.O. Hiranagar-184142, on 08.03.2017. The appellant interalia submitted that he has filed an RTI application through registered post before the PIO, 69-RCC (GREF) under the J&K RTI Act, 2009 seeking some information. That the information sought was refused to be disclosed for some unjustified reasons vide communication No. 1002/RTI/32/EIG dated: 05th November, 2016. That

the first Appeal was preferred on 22.11.2016 before the FAA of the said organization but despite lapse of nearly three months no response was received from the FAA.

Proceedings:

The case was listed for hearing on 22.05.2017. The appellant Sh. Shiv Shanker Sharma attended the hearing but no one from the respondent's side was present. The case was accordingly adjourned with following directions:

"In this appeal it is extremely necessary to hear the respondents as they have invoked exemption clause under section 8 of the J&K RTI Act, 2009 pertaining to security for non disclosure of information at the level of PIO. From the records available on file, it appears that the FAA of the BRO has neither heard nor disposed of the First Appeal. It is, therefore, directed that the case be adjourned till 12th of June, 2017 (Monday) for hearing both the parties in person."

The case was again listed on 12.06.2017. The representative of the Border Roads Organization attended the hearing. He presented a letter from his organization which stated that the Border Roads Development Board (BRDB) does not come under the J&K RTI Act, 2009 and is an exempted organization under the Central RTI Act in terms of schedule attached to section 24 which lists the names of the organizations which are outside the purview of the Central RTI Act, except in case of information relating to human rights and corruption.

Decision:

The submission made by the BRTF was considered. BRTF has clarified that it is a part of Border Roads Development Board (BRDB) which figures in the schedule to section 24 of the Central Act and, therefore, is exempted from the application of the Central RTI Act, 2005. As per the letter from BRTF dated: 22nd of May, 2017 addressed to the Joint Registrar, J&KSIC, the BRTF has quoted a reference from the Ministry of Shipping, Road Transport & Highways, Government of India clarifying the same position, that of non-applicability of the Central RTI Act for security reasons except in case of queries pertaining to corruption & human rights. It, therefore, transpires that there is no reason to think that BRTF is not an exempted organization in terms of section 21 of the State Act. This appeal is, therefore, fit to be disposed of with the remarks that the RTI application cannot be processed further for the reason that BRTF being part of BRDB is an organization exempted from the application of the RTI law in terms of schedule attached to section 24 of the Central RTI Act.

On the request of the applicant, an advice may, however, be sent to Deputy Commissioner, Kathua alongwith a copy of the RTI application to treat the same as a grievance and hear the applicant and his grievance regarding the roads constructed by the Border Roads Organization in Hiranagar and particularly the roads mentioned in the application. It is to be reiterated that the Deputy Commissioner, Kathua should in no case entertain the application under the J&K RTI Act, 2009.

The second appeal is accordingly disposed of.

Copy of this decision be given free of cost to the parties.

Sd/-

(Khurshid A. Ganai) IAS Retd.
Chief Information Commissioner
J&K State Information Commission

Dated: 14.6.2017

No: SIC/JA/96/2017/ 8490-25

Copy to:

1. Registrar, J&KSIC for information and necessary action.
2. FAA, O/o. Head Quarters, 13 Border Roads Task Force, C/o. 56 APO.
3. PIO/Administrative Officer for Commander 13 Border Roads Task Force C/o. 56 APO, Pin-930013.
4. Private Secretary to HCIC for information of the HCIC.
5. Appellant/Sh. Shiv Shanker Sharma, R/o. Village Karayara, P.O. Hiranagar-184142.
6. Office file.



(Rita Koul)
Deputy Registrar
J&K State Information Commission