

Date: 14/12/2017

To,
The Public Information Officer
Department of Home
Civil Secretariat, Jammu
Jammu and Kashmir – 180 001

Dear sir,

Sub: Submission of request for information under the *J&K Right to Information Act, 2009*


We, the residents of Jammu and Kashmir, would like to obtain, under the J&K RTI Act, the following information pertaining to the implementation of the Jammu and Kashmir Public Safety Act, 1978 (the said Act) from your public authority:

- 1) The total number of detention orders that have been referred under Section 15 of the said Act to the Advisory Board constituted under Section 14 of the said Act, since 01 April, 2016, till date;
- 2) The total number of cases in which the said Advisory Board has reported to Government under Section 16 of the said Act, that there is sufficient cause for the detention orders issued since 01 April, 2017, till date; and
- 3) The total number of cases in which the detention orders issued under the said Act were confirmed by the Government pursuant to receipt of reports from the said Advisory Board under Section 17(1) of the said Act since 01 April, 2017, till date;
- 4) The total number of cases in which the said Advisory Board has reported to the Government under Section 16 of the said Act that the cause for the detention of any person is insufficient, since 01 April, 2017, till date;
- 5) The total number of cases in which the Government has revoked detention orders on the basis of reports received from the said Advisory Board as per Section 17(2) of the said Act, since 01 April, 2017, till date;
- 6) Please provide a clear photocopy of all detention orders along with grounds for detention submitted by the Government to the said Advisory Board under Section 15 of the said Act, since 01 April, 2017, till date; and
- 7) Please provide a clear photocopy of all reports received by the Government from the said Advisory Board under Section 16 of the said Act 01 April, 2017, till date;
- 8) Please provide a clear photocopy of all orders issued by the Government under Section 17(1) of the said Act confirming detention orders pursuant to receipt of reports from the said Advisory Board since 01 April, 2017, till date; and

- 9) Please provide a clear photocopy of all orders issued by the Government revoking detention orders under Section 17(2) of the said Act, pursuant to receipt of reports from the said Advisory Board, since 01 April, 2017, till date.

We have attached an IPO (bearing # 40F 57 9480) towards payment of the prescribed application fee. We would like to receive the information described above at our postal address mentioned above. Kindly inform us of the additional fee payable for obtaining the information described above.

Thanking you,
Yours sincerely,

Adeelashah 

Adeela Shah and Naveed Bukhtiyar
R/o Shah e Jeelan Colony
House No-1, Budshah Nagar
Natipora, Srinagar – 190 015

अधपत्रा COUNTERFOIL

इसे फाड़कर प्रेषक अपने पास रख ले।
To be detached and kept
by the Sender.

पोस्टल आर्डर

₹ 10

POSTAL ORDER

किसे अदा करना
To whom payable Account

Officer, Home Dept.

किस डाकघर में
At what Office _____

क्या इसे क्रॉस किया है
Whether crossed _____

भेजने की तारीख
Date sent _____

40F 579480



Government of Jammu and Kashmir
Home Department
Civil Secretariat Srinagar/Jammu

Adeela Shah and Naveed Bukhtiyar
R/O Shah e Jeelan Colony
House No-1, Budshah Nagar,
Natipora, Srinagar-190015

No: Home/PB-V/RTI/7/2017

Dated: 09-04-2018

Sub: First Appeal under section 16(1) of the Jammu and
Kashmir Right to Information Act, 2009

This is regarding to your appeal presented to the undersigned and received in the Home Department on 11-04-2018. Immediately after receipt of the appeal, report was sought from the PIO who vide his reply dated 16-04-2018 has informed as under :-

"This has reference to your OM No. Home/PB-V/RTI/8/2017 dated 12.04.2018 regarding the subject cited above.

2. In this regard, it is to inform that as per the records, the appellants namely Adeela Shah and Naveed Bukhtiyar R/o Shah e Jeelan Colony, House No.1, Budshah Nagar, Natipora, Srinagar vide RTI application dated 21.12.2017, received in the Home Department on 27.12.2017 vide Receipt No Home/RTI/17/487, RTI application dated 21.12.2017, received in the Home Department on 27.12.2017 vide Receipt No Home/RTI/17/488 and RTI application dated 21.12.2017, received in the Home Department on 27.12.2017 vide Receipt No Home/RTI/17/489 had sought the information under the Jammu and Kashmir Right to Information Act, 2009.

3. The response/reply was furnished to all the above three RTI applications vide PIO Home Department communication No. Home/RTI/331/2016/372 dated 23.01.2018, No. Home/RTI/331/2016/373 dated 23.01.2018 and No. Home/RTI/331/2016/374 dated 23.01.2018 respectively, well within the stipulated period of time. A copy of the response each and the common receipt dated 25.01.2018 are enclosed. The response/reply to all the three RTI applications were delivered to the applicants in one envelop through Speed Post on 25.01.2018.

4. With a view to ensure that the response of each RTI application is delivered, the PIO again delivered response/reply to the applicants in three separate envelopes through Speed Post on 27.01.2018. Receipts of speed post are enclosed for ready reference.

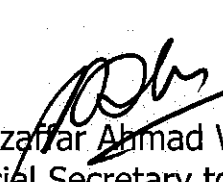
5. However, all the four envelopes containing the information to the appellants were received back from the Post Office and inscribed on the back of the envelop as " Out of station Return to sender". Copies of envelopes are enclosed for ready reference.

6. The contention raised by the appellants that PIO, Home Department has not furnished the requisite information within the stipulated period of 30 days is factually incorrect. The undersigned has disposed of all the three RTI applications, subject matter of appeals, well within the stipulated period of time.

The appeal(s) may be disposed of accordingly."

The reply by the PIO has been examined and it has been found that the PIO has disposed off the appeal in a time and also forwarded the information as sought by you through speed post twice but it has been returned with the mark " Out of station Return to sender" therefore, no malafide or inaction can be attributed to the PIO.

Your appeal is disposed off accordingly.


(Muzaffar Ahmad Wani)
Special Secretary to Govt
Home Department
(First Appellate Authority)

18/4/2018



Government of Jammu and Kashmir
Civil Secretariat, Home Department
Jammu/Srinagar

Most urgent
By Registered Post

Adeela Shah and Naveed Bukhtiyar
R/o Shah e Jeelan Colony,
House No-1, Budshah Nagar,
Natipora, Srinagar.
190015.

No. Home/RTI/331/2016/ 274

Dated 23 -01-2018

Sub: - Information under the Jammu and Kashmir Right to
Information Act, 2009.

This has reference to your RTI application dated 21.12.2017,
received in the Home Department on 27.12.2017 vide Receipt No
Home/RTI/17/489 regarding the subject cited above.

In this regard, the response/reply is as under:-

S.No	Reply	Response
1	The total number of detention orders that have been referred under section 15 of the Jammu and Kashmir Public Safety Act, 1978 to the Advisory Board constituted under Section 14 of the said act since, 01-04, 2016 till date	1004
2	The total number of cases in which the said Advisory Board has reported to Government under section 16 of the said Act, that there is sufficient cause for the detention orders since 01-04-2017 till date	998
3	The total number of cases in which the detention orders issued under the said Act were confirmed by the Government pursuant to receipt of reports from the said Advisory Board under Section 17(1) of the said Act since 01 -04- 2017 till date	998

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4	The total number of case in which the said Advisory Board has reported to the Government under Section 16 of the said Act that the cause for the detention of any person is insufficient, since 01-04-2017	06
5	The total number of cases in which the Government has revoked detention orders on the basis of reports received from the said Advisory Board as per Section 17(2) of the said Act, since 01-04-2017, till date	06
6	Please provide a clear photocopy of all detention orders along with the grounds for detention submitted by the Government to the Advisory Board under Section 15 of the said Act, since 01-04-2017 till date	Information is exempted from disclosure under clauses (f) and (g) of sub-section (1) of Section-8 of the Jammu and Kashmir Right to Information Act-2009.
7	Please provide a clear photocopy of all reports received by the Government from the said Advisory Board under Section 16 of the said Act since 01-04-2017, till date	
8	Please provide a clear photocopy of all orders issued by the Government under Section 17(1) of the said Act confirming detention orders pursuant to receipt of reports from the said Advisory Board since 01-04-2017, till date	
9	Please provide a clear photocopy of all orders issued by the Government revoking detention orders under Section 17(2) of the said Act, pursuant to receipt of reports from the said Advisory Board, since 01-04-2017, till date	

In case, you are aggrieved of the above, an appeal against the same can be filed before Shri Muzaffar Ahmad Wani, Special Secretary to Government, Home Department, First Appellate Authority within a period of 30 days from the date of receipt of the instant communication.

[Signature]
23.01.2018
(Syed Sarfaraz Rizvi)
Senior Law Officer,
Home Department

(Public Information Officer)
Room No 3/2 (C), 3rd Floor
Civil Secretariat, J&K, Jammu

Encl: (NIL leaves)

Copy for information to the Special Secretary (M) to the Government, Home Department (First Appellate Authority).

24/01/2018

The First Appellant Authority
Department of home
Civil Secretariat, Jammu
Jammu and Kashmir

Subject: CondonationOf Delay for the filing of First Appeal.

Sir,

We had filed an RTI application under Jammu and Kashmir RTI Act 2009 dated 21/12/2017 before the PIO of your department, as aggrieved by the non response of the PIO within stipulated time. We were supposed to file the First appeal within expiry of 30 days which are given to PIO by RTI Act for response . But due to the examination we were not able to file the appeal which caused the delay , therefore we request for the condonation of delay under proviso of sec 16(1) of J&K RTI Act.

Yours sincerely



NaveedBukhtiyar, Adeela shah

C/o J&K RTI Movement
R/O shah e jeelan colony
House no 1 ,Budshah Nagar Natipora
Srinagar-190015

Before the Designated First Appellate Authority
Department of Home, Civil Secretariat, Jammu
Jammu and Kashmir – 180001

Appeal filed under Section 16(1) of
Jammu and Kashmir Right to Information Act, 2009

In the matter of
Adeela Firdous shah & Naveed Bukhtiyar.
v
State Public Information Officer, J&K Police Headquarters

Date of submission :

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Before the Designated First Appellate Authority
Department of Home, Civil Secretariat, Jammu
Jammu and Kashmir – 180 001

Appeal filed under Section 16(1) of

Jammu and Kashmir Right to Information Act, 2009

Date: 28/08/2017

1) Name and address of the Appellants : Adeela Shah, Naveed Bukhtiyar
: Budshah Nagar, Natipoar R/o Shah e jeelan colony, House no-1
Srinagar, Jammu and kashmir -190015

2) Name and address of the State Public Information Officer (CPIO) to whom the Application was addressed : The Public Information Officer
Department of Home
Civil Secretariat, Jammu

3) Name and address of the State Public Information Officer who gave reply to the Application : NA

4) Particulars of the RTI application-

a) No. and date of submission of the RTI application : 21/12/2017

b) Date of payment of additional fee (if any) : Not applicable.

5) Particulars of the order(s) including number, if any against which the appeal is preferred : NA

6) Brief facts leading to the appeal :

6.1) On 21/12/2017 this Appellants despatched by Speed Post a request for information to the PIO mentioned along with the prescribed application fee, stating as follows (**Annexe 1**):

We, the residents of Jammu and Kashmir, would like to obtain, under the J&K RTI Act, the following information pertaining to the implementation of the Jammu and Kashmir Public Safety Act, 1978 (the said Act) from your public authority:

- 1) The total number of detention orders that have been referred under Section 15 of the said Act to the Advisory Board constituted under Section 14 of the said Act, since 01 April, 2016, till date;
- 2) The total number of cases in which the said Advisory Board has reported to Government under Section 16 of the said Act, that there is sufficient cause for the detention orders issued since 01 April, 2017, till date; and
- 3) The total number of cases in which the detention orders issued under the said Act were confirmed by the Government pursuant to receipt of reports from the said Advisory Board under Section 17(1) of the said Act since 01 April, 2017, till date;
- 4) The total number of cases in which the said Advisory Board has reported to the Government under Section 16 of the said Act that the cause for the detention of any person is insufficient, since 01 April, 2017, till date;
- 5) The total number of cases in which the Government has revoked detention orders on the basis of reports received from the said Advisory Board as per Section 17(2) of the said Act, since 01 April, 2017, till date;
- 6) Please provide a clear photocopy of all detention orders along with grounds for detention submitted by the Government to the said Advisory Board under Section 15 of the said Act, since 01 April, 2017, till date; and
- 7) Please provide a clear photocopy of all reports received by the Government from the said Advisory Board under Section 16 of the said Act 01 April, 2017, till date;
- 8) Please provide a clear photocopy of all orders issued by the Government under Section 17(1) of the said Act confirming detention orders pursuant to receipt of reports from the said Advisory Board since 01 April, 2017, till date; and
- 9) Please provide a clear photocopy of all orders issued by the Government revoking detention orders under Section 17(2) of the said Act, pursuant to receipt of reports from the said Advisory Board, since 01 April, 2017, till date.

6.2) This Appellants are aggrieved by the non response of the said PIO against the instant RTI application for reasons explained below.

7) Prayers or relief sought :

This Appellant prays that this First Appellate Authority be pleased to:

- 1) admit this appeal and inquire into the matters raised herein;
- 2) order the disclosure of all the information sought in the said RTI application, free of charge in accordance with Section 7(6) of the J&K RTI Act; and
- 3) make a reference against the PIO specified above to the J&K State Information Commission for imposition of penalty vide Section 16(3) read with Section 17(1) of the J&K RTI Act.

8) Grounds for the prayer or relief :

8.1) According to Section 16(1) of the J&K RTI Act, any person who is aggrieved by a decision of the PIO may prefer a first appeal to an officer, senior in rank to him, within 30 days of receiving the decision. This first appeal is being submitted on the 30th day of the expiry of the PIO's non disclosure of the information which is well within the statutory deadline stipulated in Section 16(1) of the J&K RTI Act. This Appellant is aggrieved with the non response of the PIO for reasons explained below:

8.1.1) Further, Section 5(3) of J&K RTI Act places a duty on every PIO to render reasonable assistance to persons seeking information. Instead of providing reasonable assistance to this Appellant, the PIO has not disclosed the information and has not responded to the application. **Hence the submission of this first appeal to this Hon'ble First Appellate Authority.**

8.1.2) Further, Section 7(6) of the J&K RTI Act entitles an RTI applicant to receive all information free of charge if the same is not provided within the timeline of 30 days stipulated in Section 7(1) of the J&K RTI Act. More than 30 days have gone by since the submission of the instant RTI application to this Public Authority. This Appellant seeks to invoke his right recognised under Section 7(6) of the Act and demands access to all information requested, free of charge. **Hence the submission of this first appeal to this Hon'ble First Appellate Authority.**

8.1.3) Further, according to Section 16(3) of the J&K RTI Act, at the time of deciding an appeal if the first appellate authority forms an opinion that the PIO whose order is challenged under the terms of Section 16(1) of the J&K RTI Act, has obstructed in any manner the furnishing of information under the Act, he shall make a reference to that effect to the State Information Commission. This Appellant has explained above how the non responsible

behaviour of the PIO are aimed at causing obstruction to access to information under the Act. This Appellant believes that this is a fit case for reference to the J&K State Information Commission for initiating appropriate action for imposition of penalty under Section 17(1) of the J&K RTI Act. ***Hence the submission of this first appeal to this Hon'ble First Appellate Authority.***

9) I hereby verify that the aforementioned facts are true to the best of my knowledge. I also declare that I have authenticated the Annexes to this appeal.

Signature of the Appellant:



(Adeela Firdous Shah, Naveed Bukhtiyar)