

Jammu and Kashmir State Information Commission Procedure (Management) Regulations, 2015

JAMMU & KASHMIR

India

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Rule

JAMMU-AND-KASHMIR-STATE-INFORMATION-COMMISSION-PROCEDURE of 2015

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Jammu and Kashmir State Information Commission Procedure (Management) Regulations, 2015 Published vide Notification No. 1/JKSIC/2015 dated 17.11.2015 No. 1/JKSIC/2015. - In exercise of the powers conferred by section 12(4) of the J&K Right to Information Act, 2009 (Act No. VIII of 2009) and all other provisions enabling in this behalf, the State Chief Information Commissioner hereby makes the following Regulations for management of the affairs of the State Information Commission so as to enable it to function effectively.

Chapter I

1. Short title and commencement.

- (i) These Regulations may be called "the Jammu and Kashmir State Information Commission Procedure (Management) Regulations, 2015". (ii) They shall come into force with effect from the date they are notified in the Government Gazette.

2. Definitions.

- In these Regulations unless the context otherwise requires. -(a) "Act" means the J&K Right to Information Act, 2009 (Act No. VIII of 2009) ;(b) "Appellant" means any person who files second appeal under section 16 of the Act ;(c) "Complainant" means any person who files complaint under section 15 of the Act ;(d) "Commission" means the J&K State Information Commission ;(e) "Complaint" and "appeal" mean complaint and second appeal under section 15 and 16 of the Act

respectively ;(f)"Division Bench" means a Bench comprising of Chief Information Commissioner and one State Information Commissioner, or two State Information Commissioners as the case may be, as constituted by the Chief Information Commissioner ;(g)"Decision" includes an order, direction or determination of an issue ;(h)"First Appellate Authority" means an authority so appointed or notified by the public authority under the Act and includes a head of the office or the head of the public authority if no first appellate authority is appointed or notified ;(i)"Full Bench" means a Bench comprising of Chief Information Commissioner and State Information Commissioner/ Commissioners as constituted by the Chief Information Commissioner ;(j)"PIO" means an officer designated by a public authority under section 5(1) of the Act and includes an Assistant PIO so designated or notified under section 5(2) of the Act and it also include. -(i)an officer to whom an application submitted under the J&K Right to Information Act, 2009, seeking certain information is transferred under section 5(4) of the Act ; and(ii)the Head of the public authority in case no PIO is appointed or notified.(k)"Prescribed" means prescribed by or under the Act or under the Rules or Regulations.(l)"Records" mean the aggregate of documents relating to an appeal or complaint including pleadings, rejoinders, comments, proceedings, documentary or oral evidence, decision, orders and all other documents filed with or annexed to an appeal or complaint or submitted subsequently in connection with such appeal or complaint.(m)"Registry" means the Registry of the Commission comprising of the Registrar(s), Additional Registrar(s), Joint Registrar(s), Deputy Registrar(s) or Assistant Registrar(s) ;(n)"Registrar" means the Registrar of the Commission appointed by the Government and unless the context otherwise requires includes an Additional Registrar, a Joint Registrar, a Deputy Registrar. In case Gazetted Officer(s) is not available, the Commission may designate an official as Assistant Registrar ;(o)"Regulation" means Regulation framed herein ;(p)"Representative" means a person duly authorized by the appellant/complainant to represent proceedings and may include a person who may not be an Advocate ;(q)"Respondent" includes an intervener or a third party or a party impleaded by the Commission in an appeal/complaint as the case may be ;(r)"Rules" mean the Rules framed by the State Government under section 24 of the Act ;(s)"State Chief Information Commissioner" means the Chief Information Commissioner appointed under the Act ;(t)"State Information Commissioner" means State Information Commissioner appointed under the Act ;(u)"Section" means section of the Act ;(v)"Single Bench" means a Bench comprising of Chief Information Commissioner or one State Information Commissioner ;(w)Words and expressions used herein but not defined shall have the same meaning assigned to them in the Act or in the Rules.

Chapter II

Officers of the Commission and their functions

3. Designation of Registrar.

- The Commission may designate one or more of its officers in the Commission to function and act as Additional Registrar(s), Joint Registrar(s), Deputy Registrar(s) and provide other staff that may be necessary to assist the Registrar in the performance of his duties and responsibilities. In case an officer in the gazetted rank is not available, the Commission may designate an official from subordinate cadre as Assistant Registrar for smooth working of the Registry.

4. Powers and functions of the Registrar.

- (i) The Registrar shall be the Chief Executive of the Commission on the judicial side. Any communication addressed to him shall be deemed to be addressed to the Commission and the Commission will be represented by him in all judicial matters.(ii)The Registrar shall discharge his functions under the control and superintendence of the Chief Information Commissioner.(iii)All judicial records of the Commission shall be in the custody of the Registrar.(iv)The Official Seal of the Commission shall be kept in the custody of the Registrar.(v)Subject to any general or special directions of the Chief Information Commissioner, the Official Seal of the Commission shall be affixed to any order, summons or other process under the authority of the Registrar.(vi)The Official Seal of the Commission shall not be affixed to any certified copy issued by the Commission save under the authority of the Registrar.(vii)The office of the Registrar shall receive all applications, complaints, appeals, counter statements, replies and other documents.(viii)The Registrar shall decide all questions arising out of the scrutiny of the appeals and complaints and communicate the deficiencies, if any, to complainant/appellant, returnable within 15 days, and in case the deficiencies are not removed within the time frame the Registrar shall place the case before the Commission for appropriate orders.(ix)The Registrar may require any application, appeal, counter statement, replies presented to the Commission to be amended in accordance with these Regulations and direct any formal amendment of such records.(x)The Registrar shall fix the date of hearing of appeal, complaint or other proceedings and may prepare and notify in advance a cause list in respect of the cases listed for hearing, particularly the appeal(s) shall be listed at the earliest to enable the Commission to decide the appeal within the time frame prescribed under section 16(11).(xi)The Registrar may, on payment of a fee prescribed for the purpose, grant leave to a party to the proceedings to inspect the record of the Commission under supervision and in presence of an officer of the Commission.(xii)Copies of documents authenticated or certified shall be provided to the parties to the proceedings only under the authority of the Registrar.(xiii)The Registrar shall communicate the decisions, orders or directions of the Commission to the concerned person/persons, and all such communications signed or authenticated by the Registrar or under his authority shall be deemed to be the communications from the Commission.(xiv)The Registrar shall be responsible for ensuring compliance of the orders, directions or decisions passed by the Commission and to take all necessary steps in this regard.(xv)The Registrar shall exercise all such powers and discharge all such functions as are assigned to him by these Regulations or by the Chief Information Commissioner from time to time.(xvi)The Registrar shall assist all Information Commissioners in discharge of their functions.(xvii)The Additional Registrar shall have all the powers conferred on a Registrar and will exercise all the functions of the Registrar under his guidance.(xviii)The Registrar may with the approval of the Chief Information Commissioner delegate to a Joint Registrar, Deputy Registrar or Assistant Registrar any function required to be performed under these Regulations for the smooth functioning of the proceedings before the Commission under the Act.

Chapter III

5. Working hours, sittings and vacations etc.

- Subject to any order by the Chief Information Commission, the office of the Commission will be open on all working days from 9.30 AM to 5 PM when Secretariat is at Jammu during winter session and at Srinagar during summer session observing 5 day week. The offices of Commission in Srinagar and Jammu shall observe same office timings and working hours as are observed by Government offices in Srinagar during winter and in Jammu during summer season with 2nd and 4th Saturday off.

Chapter IV

Registration and Return of Appeal

6. Appeal or complaint etc. to be in writing.

- Every appeal, complaint, application, statement, rejoinder, reply or any other document filed before the Commission shall be computerized typed in double space and printed preferably on Judicial Paper (Green) and the language used therein shall not be in any way indecent or abusive. The complaint/appeal, shall be presented in the Commission in three sets.

7. Contents of appeal or complaint.

- An appeal or a complaint to the Commission shall contain the following information, namely.
-(i) name, address, with any valid proof of residence and Phone No. of the complainant/appellant ;(ii) Particulars of the Public Information Officer (PIO) and First Appellate Authority (FAA) against whom a complaint/first Appeal is made under section 15 and 16 (i) of the Act, as the case may be ;(iii) particulars of the decision or order, against which the appeal is preferred ;(iv) brief facts of the appeal or the complaint ;(v) prayer or relief sought ;(vi) grounds for the prayer or relief ;(vii) verification by the appellant or the complainant ;(viii) any other information which the Commission may deem necessary for deciding the appeal or complaint.

8. Documents to accompany appeal or complaint.

- Every appeal or complaint made to the Commission shall be accompanied by self attested copies/photo copies of the following documents, namely. -(i) The RTI application submitted before the PIO along with documentary proof as regards payment of fee under the J&K RTI Act, 2009, where the applicant is a person belonging to BPL category, he shall attach proof of the same ;(ii) The order, or decision or response, if any, from the PIO to whom the application under the RTI Act was submitted ;(iii) The First Appeal submitted before the First Appellate Authority (FAA) with documentary proof of filing the First Appeal ;(iv) The orders or decision or response, if any, from the First Appellate Authority against which the appeal or complaint is being preferred ;(v) The documents relied upon and referred to in the appeal or complaint ;(vi) A certificate stating that in respect of information sought which is the subject matter of appeal. -(a) No other request for

information or an application or contents regarding the same subject has been previously filed or is pending with any public authority and if so, particulars thereof; (b) No appeal, complaint or petition is pending with any court or tribunal or with any other authority including the first Appellate Authority or a Public Authority; and (c) Is not covered by any other appeal, complaint or petition filed before the Commission and if so, the result thereof. (vii) An index of the documents referred to in the appeal or complaint; and (viii) A list of dates briefly indicating in chronological order the progress of the matter up to the date of filing the appeal or complaint to be placed at the top of all the documents filed.

9. Presentation and scrutiny of appeal or complain.

- (i) The Registrar shall receive an appeal or complaint addressed to the Commission and ensure that it is as per Clause 7 & 8 above. (ii) The Registrar shall scrutinize every appeal/complaint received and will ensure. - (a) that the appeal or the complaint is duly verified and required number of copies are submitted; (b) That all the documents annexed are duly self attested by the appellant or the complainant; (c) That the copies of the documents filed and submitted are clear, and legible; (iii) That Registrar shall intimate the deficiency (ies) to the appellant/ complainant for its removal/completion within 15 days from the date of receipt of the deficiency notice. (iv) The Registrar shall place before the Chief Information Commissioner the following cases for appropriate orders of the Commission and the orders so passed shall be communicated to the appellant/complainant as the case may be. - (a) any appeal if it is time-barred; or (b) any appeal/complaint if it is otherwise inadmissible; or (c) any appeal/complaint if it is not in accordance with these Regulations. (v) All appeals and complaints not rejected or returned as above and found in order shall be registered and a specific number will be allocated. (vi) The Registrar or any other officer authorized by the Commission shall indicate on every appeal or complaint as referred in (vi) above, the date on which it is admitted by Registrar. (vii) The appeals and complaints shall bear separate file numbers of the respective registry i. e. Central Office Registry, Jammu Office Registry and Srinagar Office Registry as prescribed. (viii) If the appellant/complainant fails to remove the deficiencies/ rectify the defects within the time allowed in clause (IV) of the above, the appeal or complaint shall be deemed to have been rejected.

9A. Filing of counter statement by the Public Information Officer or the First Appellate Authority.

- Upon admission of a complaint/appeal, a notice shall be served to PIO/FAA or the Public Authority for filing counter statement along with documents, if any, returnable within 7 days in case of Appeal and within 15 days in respect of the Complaint from the date of receipt of notice. The copy of the written statement may also be provided to the complainant/appellant by the PIO/FAA or the Public Authority as the case may be.

10. Date of hearing to be notified.

- After admission of the appeal/complaint the Commission shall fix the date of hearing and notify

the same to the parties.

11. Posting of appeal or complaint before the Information Commission.

- (i) An appeal or a complaint, or a class/categories of appeals or complaints, shall be heard either by a Single Bench comprising of State Chief Information Commissioner or State Information Commissioner or a Division Bench comprising of State Chief Information Commissioner and State Information Commissioner, or two State Information Commissioners or a Full Bench comprising of State Chief Information Commissioner and two State Information Commissioners, as decided by the State Chief Information Commissioner by a special or general order issued for this purpose from time to time. (ii) Where in the course of the hearing of an appeal or complaint or other proceedings before a Single Information Commissioner, the Commissioner considers that the matter should be dealt with by a Division or Full Bench, he shall refer the matter to the State Chief Information Commissioner by a reasoned order who may thereupon constitute such a Bench for the hearing and disposal of the matter. (iii) Similarly, where during the course of the hearing of a matter before a Division Bench, the Bench considers that the matter should be dealt with by a Full Bench, it shall refer the matter to the State Chief Information Commissioner by a reasoned order who may thereupon constitute such a Bench for the hearing and disposal of the matter.

12. Withdrawal of an appeal or complaint.

- The Commission may in its discretion allow a prayer for withdrawal of an appeal or complaint during the course of its hearing if such a prayer is made by the appellant or complainant on an application made in writing. However, no such prayer may be entertained by the Commission after the matter has been finally heard or a decision or order has been pronounced by the Commission.

13. Presence of the appellant or complainant.

- (i) The appellant may seek the assistance of any person while presenting his case before the Commission and the person representing him may not be a legal practitioner. The person representing the appellant must have a proper authority duly signed. (ii) If the appellant decides not to be present either personally or through his duly authorized representative during the hearing of an appeal before the Commission, the Commission may pronounce its decision or order in the matter on the basis of record available. (iii) If an appellant/complainant or PIO/FAA whosoever is represented by an Advocate, the Advocate shall file a WAKALATNAM duly attested and affixed with a stamp of Rs. Ten. (iv) The Commission, if it deems necessary, may seek the personal presence of the appellant or the complainant for disposal of such appeals/ complaints. (v) If the complainant, whose personal appearance has been sought fails to appear before the Commission on the date of hearing of the complaint, the Commission may proceed against him in terms of section 15 of the J&K RTI Act, 2009 read with section 30 and 32 of the Code of Civil Procedure Svt. 1977. Further, the Commission may also dismiss the complaint for non-appearance in terms of order 9 rule 8 of the Code of Civil Procedure Svt. 1977.

14. Evidence before the Commission.

(1) In deciding an appeal or a complaint, the Commission may, - (i) receive oral or written evidence on oath or on affidavit from concerned person or persons ; (ii) peruse or inspect documents, public records or copies thereof ; (iii) inquire through authorized officer further details or facts ; (iv) examine or hear in person or receive evidence on affidavit from Public Information Officer, Assistant Public Information Officer or such Senior Officer who decided the first appeal or such person or persons against whom the complaint is made as the case may be ; or (v) examine or hear or receive evidence on affidavit from a third party, or an intervener or any other person or persons, whose evidence is considered necessary or relevant. (2) The State Information Commission shall, while inquiring into any matter under section 15 of the Act have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure Svt. 1977 in respect of the following matters, namely . - i. summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things ; ii. requiring the discovery and inspection of documents ; iii. receiving evidence on affidavit ; iv. requisitioning any public record or copies thereof from any Court or Office ; v. issuing summons for examination of witnesses or documents ; and vi. any other matter which may be prescribed. (3) As provided under section 32 (c) of Code of Civil Procedures Svt. 1977 the Commission may impose fine up to Rs. 5000/- on such officer not responding to the summons under clause (i) of the Regulations 14(2) above.

15. Issue of summons.

- Summons to the parties or to the witnesses for appearance or for production of documents or records or things shall be issued by the Registrar under the authority of the Commission, and it shall be in such form as may be prescribed by the Commission.

16. Conduct of an enquiry.

- The Commission may order Registrar or any other officer of the Commission to assist in the conduct of enquiry in connection with any complaint pending before it and Commission while conducting the enquiry shall have all the necessary powers including power to - (i) summon and enforce attendance of persons ; (ii) compel production of documents or things ; (iii) administer oath and to take oral evidence or to receive affidavits or written evidence on solemn affirmation ; (iv) inspect documents and require discovery of documents ; and (v) requisition any public record or documents from any public authority.

17. Communication of decisions and orders.

- (i) Every decision or order of the Commission shall be signed and dated by the Commissioner or Commissioners who have heard the appeal or the complaint or have decided the matter. (ii) Every decision/order of the Commission may be communicated to the parties under authentication by the Registrar or any other officer authorized by the Commission in this regard and a copy placed on Commission website. (iii) Every such decision or order, whenever pronounced by a Single Bench or

by a Division Bench or by a Full Bench, shall be deemed to be the decision or order by the Commission under the Act.

18. Use of information accessed under RTI Act.

- In consonance with the preamble of the Act and in order to promote transparency and accountability, the Commission while deciding a complaint/appeal may pass a direction wherever it deems necessary asking the information seeker to intimate the Commission end use of the information which he has been provided under RTI Act by the PIO directly or on the intervention of the Commission.

Chapter V Miscellaneous

19. Seal and emblem.

- The official seal and emblem of the Commission shall be such as the Commission may specify.

20. Language of the Commission.

- (i) An appeal or a complaint may be filed in English or in Urdu/Hindi and all the documents or copies thereof shall also be filed in English/Urdu/Hindi. Where a document, in original, is in a language other than English/Urdu or in Hindi, a certified authenticated copy of its translated version in English/Urdu or in Hindi shall also be filed along with the original. This shall also apply in the case of a counter statement, rejoinder, reply or any other document or documents filed before the Commission. The appeal or complaint shall be written in English or Urdu and shall be neat and clean and preferably typed on Judicial/Green paper. (ii) Appeals and complaints which have already been filed before the date of commencement of these Regulations and have been found in order and are already registered before this date will be proceeded with as before and shall not abate for any infirmity therein but these regulations will be applicable for any prospective action even in regard to such pending appeals and complaints.