



Jammu and Kashmir State Information Commission

جموں اینڈ کشمیر سٹیٹ انفارمیشن کمیشن

(Constituted under The Right to Information Act, 2009)

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Decision No. 120- SIC-J/K/Comp/35/2010

Author: G. R. Sufi, Chief Information Commissioner, J&K.

CORAM: Shri G. R. Sufi, IRS (Retd.), Dr. Sudesh Kumar Sharma, Shri Nazir Ahmad.

Title: 1) Shri Vilakshana Singh, 2) Mr, Nasrullah, 3) Dr. Varun Suthra, Syed
4) Mr. Immamul Ansarullah, 5) Shri Raman Sharma, 6) Shri Sunal Mahajan
7) Ms. Shalini Gupta, 8) Dineshwar Singh Jamwal & 9) Shri Chuni Lal.

Versus

Shri Mushtaq Ahmad, Chairman, Jammu & Kashmir Bank Ltd.

Reserved on: 24-02-2012

Decision on: 24-04-2012

24-04-2012

With the enactment of the J&K State Right to Information (RTI) Act, 2009, its enforcement from March 2009 and constitution of the J&K State Information Commission with the appointment of Chief Information Commissioner on 28-02-2011, following residents of the State, exercising their right conferred on them under section 3 of the J&K RTI Act, 2009

filed applications under section 6 of the Act before the Chairman, J&K Bank Limited and sought information which is short listed as under:-

(Mr. Vilakshana Singh)

“Kindly supply me information regarding following queries on a compact disc:-

(i) Kindly provide me the names of the advocates who are on the panel of advocates of J&K Bank.

(ii) Kindly provide me experience of each such advocate along with copies of license (scanned on a compact disc) of each advocate.

(iii) Kindly provide me the criteria/eligibility conditions and minimum experience required for being empanelled as advocate on the panel of advocates of J&K Bank. Also quote the relevant provisions of the relevant rules.”

(Mr. Nasrulla)

“01. How many vacancies of class IV employees, permanent or casual became available in the entire organization of the J&K Bank including all branches in and outside the state & w.e.f. 1/1/2002 to 31.3.2010 with branchwise and yearwise breakup?

2) How many such vacancies as indicated at serial No. 1 were filled up by direct recruitment and who are the appointees with full details, description and details branchwise and yearwise and what was the method and manner of such recruitment?

the organization of J&K Bank whether by retirement or by promotion or/creation w.e.f. 1/1/2002 to 31/3/2010 with full details branchwise and yearwise?

4) Who are the persons appointed either on permanent or temporary, contractual or casual basis as Cashier-cum-Clerks-cum-typists by direct recruitment or by promotion from orderlies etc or and of equivalent rank in the entire organization of J&K Bank giving full details and particulars branchwise and yearwise w.e.f. 01-01-2002 to 31-03-2010 and what was the method and manner of such recruitments? In case any advertisement notice issued during this specified period, copies be provided.

05) Who are members of selection committee, if any in the J&K Bank and copies of recommendations/minutes yearwise w.e.f. 01-01-2002 to 31-03-2010, copy of recruitment rules governing Bank staff inforce as on today also may kindly be provided?

06) What is exact number of vacancies category wise available in the organization at present giving branchwise details?

07) How many vacancies class wise and category wise become available due to creation of Graimin Bank and what was the method of recruitment of such recruitment in the said bank and how many vacancies of Graimin Bank are.....? ?

08) What is the mechanism adopted for utilization of human resources in respect of arrangement between the J&K Bank and Metlife Insurance Company, who are the persons adjusted in Metlife Insurance Company by J&K Bank Ltd and what is the method and manner of such adjustment?

(Dr. Varun Suthra)

- “1. Names of legal counsels engaged by J&K Bank at Chandigarh during the last 10 years.
2. Appointment letters along with extension(s) granted, if any, to legal counsels engaged by J&K Bank at Chandigarh during last 10 years.
3. Details of ATMs inaugurated during 2000-03 along with the names of the dignitaries who inaugurated the ATMs together with dates of inauguration of ATMs.
4. Who was the Chairman of Jammu & Kashmir Bank Ltd. during 2000-02

(Syed Immamul Ansarullah)

- “1- What criteria was adopted for selection of banking associate while giving weightage to qualification, written test and viva voce on the basis of which the selection was made.
- 2- why the bank authorities did not publish any list of waiting candidates who could be confirmed against dropouts?
- 3- Why the list was not published in print media?
- 4- Please give me my answer sheet of written test.
- 5- please give me the final award of candidates selected.”

The information sought by following other complainants is given in a separate sheet as annexure (I):

- 1.) Shri Raman Sharma, 2) Shri Sunal Mahajan, 3) Ms. Shalini Gupta, 4) Shri Dhineshwar Singh Jamwal 5) Shri Chuni Lal Raina.

2) The Bank through Executive Manager Law and Vice President Law, J&K Bank Ltd. refused to provide any information to all the complainants taking the plea as under:

“-----we are to communicate to you that J&K Bank Ltd. does not come within the purview of Right to Information Act 2009 in as much as it is not “Public Authority” as defined by the said Act.”

3) Accordingly, these residents filed complaints under section 15(1) (b) of the State RTI Act 2009 before this Commission.

4) The following submissions and prayers have been made in their complaints:-

(Vilakshana Singh)

- “i) that the J&K Bank Ltd is a “Public Authority” as defined in the said “State RTI Act, 2009” and as such is bound not only to appoint Public information Officers (PIOs) and Ist Appellate Authorities (FAAs) but also to furnish information under the provisions of said Act.
- ii) that by denying to furnish information sought by the complainants under State RTI Act, 2009, the non applicant has violated the provisions of the RTI Act, 2009;
- iii) that non applicant has violated section 5(1) of the J&K RTI Act, 2009 by not appointing a Public Information Officer till date;
- iv) that non applicant has also acted in violation of section 5(2) of the RTI Act, 2009 by not appointing Asstt. Public Information Officers at each sub-divisional level of the State within 100 days of the commencement of State RTI Act 2009;
- v) that above said Act on the part of non-applicant clearly shows the intention of the non applicant to deprive the residents of the State of their valuable right i.e. “right to information”. Therefore, it is prayed before this Commission to issue directions to the non applicant to: -
 - (a) furnish information sought by the complainant to him.
 - (b) to designate some of its officers as Public Information Officers as required by the provisions of Section 5(1) of the J&K RTI Act, 2009.
 - (c) to designate some of its officers as Asstt. Public Information Officers at each such division or their sub-district level- as required by the provisions of section 5(2) of State RTI Act, 2009.
 - (d) that to impose penalty on the non applicant for wrongly failing to provide information sought by the complainant and last
 - (e) to award compensation to the complainant for refusing information.”

(Syed Nasrullah)

“-----that the respondents vide communication No. CLD/2010/377 dated 25.05.2010 intimated to the complainant that the Bank is not a public authority within the meaning of J&K RTI Act 2009 and accordingly did not furnish the information sought by the complainant.

-----It is therefore, prayed as under:-

- 01) That the Chairman J&K Bank Ltd. may kindly be impressed that all banks including J&K Bank are Public Authorities and liable to appoint and designate PIOs to ensure transparency.
- 02) That the Chairman J&K Bank Ltd. be commanded to furnish the complainant the requisite information as per application already submitted.
- 03) That penalty under law may kindly be imposed upon the Chairman J&K Bank Ltd. for not furnishing the requisite information to the complainant and the complainant be awarded compensation.”

(Dr. Varun Suthra)

“I had sent application dated 01.04.2011 to the Chairman J&K Bank Ltd. for obtaining information under J&K Right to Information Act 2009 as listed above.

The application of the undersigned was not considered by the Chairman J&K Bank Ltd. on the ground that the J&K Bank does not come within the ambit of J&K RTI Act, 2009-----

It is respectfully prayed that Hon’ble Chief Information Commissioner may kindly be pleased to direct Chairman J&K Bank Ltd. to provide the aforesaid information to the undersigned in public interest since, J&K Bank Ltd. comes under the purview of J&K RTI Act, 2009 as Government of Jammu and Kashmir has 51% stake in it.”

(Syed Immamul Ansarullah):

“.....then I filed an application through speed post to the Chairman, J&K Bank Ltd. Hqrs. Srinagar, for the information. After filing an affidavit and application through speed post they dispatched the same affidavit and a letter through their law Department to my address that we are beyond the RTI Act under Section (2) of the said Act.”

5) As the issue whether the respondent bank is a Public Authority as defined in Section 2(f) of the State RTI Act, 2009 is involved in all the complaints, therefore, for convenience sake, their complaints are bunched together and disposed of in this common order.

6) After receiving these complaints, the registry of this Commission sent copies of these complaints to the respondents for their counter submissions and hearing was also fixed from time to time and was adjourned several times on the request of the J&K Bank Ltd. authorities as per the records. The respondent authorized Mr. Z.A. Shah, a senior advocate as their Counsel who was accompanied by a few executives of the Bank. The complainants were mainly represented by Mr. Vilakshana Singh, Advocate.

7) The initial hearing of the complaints was made by Chief Information Commissioner. During initial hearing it was observed that an important question of law to the effect whether the Jammu & Kashmir Bank Ltd. (J&K Bank Ltd) is a “Public Authority” as defined under Section 2 of the J&K State RTI Act, 2009 has arisen, therefore, the Chief Information Commissioner vide his order dated: 29-12-2011 ordered for the constitution of the full bench as provided under Rule 25 of the State RTI Rules, 2010.

8) The full bench of the Commission heard Mr. Z. A. Shah, the learned counsel for the respondent and Mr. Vilakshana Singh, Advocate - himself a complainant during several hearings.

9) Mr. Z. A. Shah, the learned counsel of the respondent, strongly opposed the complainant's plea to declare J&K Bank Ltd. as a Public Authority under the State RTI Act 2009 by arguing that J&K Bank does not fall under the definition of Public Authority as contained in Section 2(f) of the State RTI Act 2009. He took the Commission through the definition of "Public Authority" as laid down in the State RTI Act, 2009 and argued that under this definition only a Public Authority which fulfills various criterion as laid down therein, can be brought under the ambit of State RTI Act, 2009. He argued that though even a non-governmental organization can be brought within the purview of State RTI Act, 2009 only if it fulfills conditions laid down in the definition of Public Authority. If non governmental organizations are not substantially financed directly or indirectly by funds provided by the Government, they cannot be declared as Public Authorities. The Act itself has put fetters on declaring such organizations as public authorities because even for declaring such organizations as public authorities, the requirement of the law is that they have to be substantially financed directly or indirectly by funds provided by the Government and Public Authorities should be appointed, designated or established by Govt. notification or order made by the Government and includes – "any (A) body owned, controlled or substantially financed";

10) The learned Counsel further argued that if various limbs of definition of Public Authority under J&K RTI Act 2009, do not qualify J&K Bank Ltd. as a Public Authority, nothing else can bring it under the ambit of Public Authority because it does not fall under the clauses (i), (ii) and (iii) of Section 2(f) of State RTI Act, 2009, as the bank is neither constituted by Constitution of India or Constitution of J&K, nor by any other law made by

the State Legislature or by any notification issued or order made by the Government. For declaring the respondent a Public Authority, it has to be done through a specific law made by Legislature or notification issued by the Government.

11) The learned Counsel's main thrust in advancing and buttressing his argument was his reliance on the Hon'ble Jammu and Kashmir High Court's decision in the case titled Firdous Tanki & Ors. V/s J&K Bank Ltd & Ors. and he stressed that all the issues raised by the petitioners in their complaints before the Commission for declaring the respondent bank as a Public Authority were replied by Hon'ble J&K High Court in negative in a majority judgment.

12) The learned Counsel stated that the Hon'ble High Court was called upon to answer whether the J&K Bank Limited was a State or Authority or an instrumentality or agency of the State within the meaning of Article 12 of the Constitution of India and was thus amenable to writ jurisdiction of the High Court of J&K. He further emphasized that the Bank was not established by any other law made by the State Legislature, as at the time of the establishment of the Bank in 1939, the State legislature did not exist and hence derived support from paras 14, 15 and 17 of the above quoted judgment.

13) In response to a query raised by the Commission that the Bank was created on the will, desire or instruction, of the Late Maharaja Hari Singh i.e. Sovereign Authority of the State in 1939, Mr. Zaffar argued that there is a set format for issue of notification or order by the Govt., therefore, the will,

desire or instruction of the Sovereign did not have the validity of a notification or an order of the Govt. Since no such notification has been issued by the then Govt. of Maharaja , the Bank does not, thus, fall under the ambit of definition given in section 2(f) of the State RTI Act, 2009.

14) The Learned Counsel further submitted that J&K Bank was actually created under section 11 of the Companies Act 1956 and not by any order or notification of the State Govt. He was of the opinion that unless all the three conditions in section 2(f) i.e., Public Authority established or constituted:-

- i) by or under the constitution of India or Constitution of J&K,
- ii) by any other law made by the Parliament,
- iii) by any other law made by the State Legislature,
- iv) by notification issued or order made by the Govt. having fulfilled the conditions of ownership, control or substantially financed, then and then it can be declared as a public authority as defined in the Act. He tried to establish his case that the Bank is neither owned by the Government nor controlled or substantially financed by the Govt. stating that control of the Bank is exercised by a Board of Directors out of which only 1/3rd are Govt. nominees, Government's contribution in share capital has been reduced from 92% to 53%. He further argued that even the share capital of the Govt. is not a continuing exercise and a continued financial support, therefore, it cannot be said that Government has substantial financial interest as against the private individual share holders who run in thousands holding net aggregate remaining 47% of shares.

15) Countering the arguments of the learned Counsel for the respondent Bank, the learned Counsel Sh. Vilakshna Singh, Advocate who himself is a

complainant in this case, strongly contended that the Bank was established under a Sovereign will and desire of the then Sovereign of the State i.e. late Maharaja Hari Singh by a notification/memorandum issued by the Govt. of J&K in 1939. The Bank came into being through the Memorandum initiated by the Finance and Development Minister of the State of Jammu and Kashmir on 19-06-1939 as recorded by the Hon'ble High Court in its majority judgment in the case titled Firdous Tanki & ors V/S J&K Bank Ltd. & ors.

16) Mr. Vilakshana Singh submitted that the counsel of J&K Bank Ltd has admitted that the J&K Bank Ltd was established by a notification/memorandum issued by the then Government of J&K but wriggled out from this admitted fact later on the plea that after the enactment of Companies Act, 1956, the said Bank was registered as Government Company and hence it owes its existence to the Companies Act, 1956. Obviously, the stand is not based on facts. The Bank would not have come into existence but for the notification issued by the Late Maharaja, the sovereign of the State. The Learned Counsel also referred to His Majesty's Government Circular or notification whatever name it may be given, which has been expressed in Memorandum and Articles of Association of the Bank. As the Bank came into existence because of efforts of Government in pursuance of the memorandum issued by Finance and Development Ministry of the erstwhile State of Jammu & Kashmir, thus the Jammu and Kashmir Bank Ltd is a body established by a notification in the form of memorandum issued by the then State Government of Jammu and Kashmir. To support his argument he relied on IFCI Ltd. V/S Ravinder Balwani Case. W.P(C) 4596/2007 of Delhi High Court.

17) Continuing his submissions, the learned counsel Mr. Vilakshana Singh argued that J&K Bank Ltd falls under Section 2(f)(iv)(A) since it is a “body owned, controlled and substantially financed by the State Government. Even if only one of the three conditions enumerated in this provision is fulfilled, the Bank would be a Public Authority but in the present case, the Bank fulfills all the three conditions as the State Government exercises its control over the Bank in the following ways:-

- a) Government of Jammu and Kashmir has powers and authority to appoint three Directors of J&K Bank Ltd and these three Directors on its Board of Directors cannot be expelled from Board of Directors without the will of the Government. Majority of the Directors have no powers and right to expel the Government Directors.
- b) Only a Government nominee Director can be the Chairman of the Bank; which is the highest administrative and executive authority of the Bank. Thus the Government exercises the administrative control over the Bank through him.
- c) The J&K Bank Ltd falls under the audit jurisdiction of CAG as well as Director General, Audit & Inspections of J&K Govt. By this way the Government exercises its control over the Bank through these Organizations also. The website of Accountant General, J&K State prominently shows that 17 Public Sector Undertakings fall under the audit jurisdiction of Accountant General Audit, J&K and the respondent bank is one of them.
- d) Similarly, the Committee on Public Undertakings of the State Legislature has summoned Chairman J&K Bank Ltd and other authorities of the Bank to depose before it and to furnish a detailed

report with regard to deposits and advances within and outside the State with the direction to speed up recovery of the loans.

18) Countering the argument of the learned counsel of the Bank that the Government of J&K does not exercise any financial control as held by the Hon'ble J&K High Court in the case titled Firdous Tanki & Ors. V/S J&K Bank Ltd. & Ors. Mr. Singh said that financial control by the Government has to be understood in the context of Central as well as State RTI Acts.

19) The above said findings that the Government does not exercise any financial control over J&K Bank Ltd was restricted to the limited issue whether the employees of the Bank are amenable to the writ jurisdiction of the Hon'ble High Court. Whereas the "control" in Section 2(f)(iv)(A) of the State RTI Act, 2009 is unqualified. Various High Courts have held that word "control" as used in Section 2(h)(d)(i) of the Central Act, 2005, which is exactly same as Section 2(f)(iv)(A) of the State Right to Information Act, 2009, does not mean majority control. If the Government exercises such degree of control over a body which it does not exercise over similar bodies, then the former body shall be said to be controlled by the Government within the meaning of Section 2(f)(iv)(A).

20) The 'control' exercised by the State Government over the J&K Bank Ltd is not same as exercised by it over the private banking companies. Then the former body shall be said to be controlled by the Government within the meaning of Section 2(f)(iv)(A). The control exercised by the State Government is not exercised by it over the private banking companies. The State Government does not have power to appoint Chairman or even

Directors to the private banking companies working in the State. The other private banking companies also do not fall under the audit jurisdiction of Accountant General Audit, J&K office and Director Audit and Inspections, J&K. This gives a special degree of control to the Government on the J&K Bank. Distinguishing the setting and background of Hon'ble J&K High Court's majority decision in Firdous Tanki & others Versus J&K Bank Ltd., the learned counsel stated that facts were entirely different. Its context was Hon'ble Apex Court's decision in the case of Pardeep Kumar Biswass wherein the Hon'ble Court discussed the concept of "Deep and Pervasive control of State/Central Government for declaring a body to be a 'State' within the meaning of Article 12 of the Constitution of India.

21. As per these principles even if Government has 100% equity in a Company, even then said company can be declared to be not falling within the definition of State as given in Article 12 of Constitution of India. The Apex Court has held in various judgments that what is binding on lower courts is the principle on which a case is decided. In Union of India and Others V/s Danvanti Devi and others (1996)65CC44 case, it was held that a decision is only an authority for which it actually decides. The essence in decision is its ratio and not every observation. Firdous Tanki's case revolved around the issue whether a body is state or not." The said judgment did lay the principles for deciding whether J&K Bank Ltd is Public Authority under Section 2 (f) of the State Right to Information Act, nor does it conclude that J&K Bank Ltd is not a Public Authority. This is particularly relevant when one goes to the definition of Public body given in the then existing State RTI Act, 2004 which itself has declared a body coming under the ambit of Companies Act 1956 to be a body covered under that definition. The learned

Counsel of the Bank stressed before the Commission that J&K Bank Ltd. is a Government Company in terms of Companies Act, 1956, therefore, there is no clash between Public Authority defined in Section 2 of the present State RTI Act, 2009 and Government Company defined in Companies Act, 1956.

22) The learned counsel Shri Vilakshana Singh also brought to the notice of the Commission following court decisions wherein it has been held that “principles which are vital for deciding whether a body within the definition of State, are not relevant for deciding whether a body is “Public Authority” under Central RTI Act, 2005/State RTI Act, 2009:-

- 1) New Area Tripur Area Development Corporation Ltd, Chennai, V/S State of Tamilnadu AIR 2010 MAD 176
- 2) IFCI Ltd V/S Ravinder Balwani, W.P.(C) 4596 /2007 of Delhi High Court.
- 3) Indian Olympic Association V/S Verish Malik & Others, W.P.(C) 4596 /2007 of Delhi High Court.
- 4) Krishak Bharti Co-operative Ltd. V/S Ramesh Chander Bawa, WP (C) 6129/2007 of Delhi High Court.

23) While elaborating ratio laid down with regard to the word “under and Control” used in Section 2(h)(d)(i), the courts have held that “under and control” does not mean that body must be wholly “under or controlled” by the Government .

- a. (New Area Tripur Area Development Corporation Ltd, Chennai, V/S State of Tamilnadu AIR 2010 MAD 176):

The Hon'ble Delhi High Court in the judgment of case titled IFCI Ltd Versus Ravinder Balwani, W.P.(C) 4596 /2007 has held that word "control" as used in Section 2(h)(d)(i) of Central RTI Act, 2005 does not mean majority control.

The Hon'ble Madras High Court, in New Area Tripur Area Development Corporation Ltd, Channai, V/S State of Tamilnadu AIR 2010 MAD 176 also held that the real nature of a Company should be looked into after lifting the veil.

24) The learned counsel accordingly argued that J&K Bank is a body established, owned and controlled by the State Government within the meaning of Section 2(f)(iv)(A) of State RTI Act, 2009 as the state holds 53% of the total share capital of the Bank and Bank is also registered as a Government Company under Companies Act, 1956. Lastly, the learned counsel fervently urged the Commission to declare the J&K Bank Ltd. as a Public Authority and fulfill the mandate given under this revolutionary Act which is contained in the preamble of this legislation. He prayed that it would be fulfilling the intention of the Legislature to make the J&K Bank Ltd. the premier banking institution in the State amenable to transparency and accountability which is the corner stone of this Act.

25) While drawing attention of the Commission to the 'Preamble' of this revolutionary legislation i.e. State RTI Act, 2009, the learned counsel urged that the Legislature's intention was clear that it wants to make a body transparent and accountable to the public if such a body is "Public Authority". Thus every Body in which Government holds more than 50% of the share capital should be held to be a body owned by the Government. If it

is held otherwise, it may defeat the very purpose of the legislation for which it has been enacted. Similarly, the fact remains that the State Government is holding 53% of the share capital of the J&K Bank Ltd., the Government has a substantial financial interest in the Bank. On this account also, the Bank falls within the ambit of Public Authority under Section 2(f)(iv)(A) of the Act. Moreover, even if it is presumed that the J&K Bank Ltd is a non-Governmental organization, even then it falls within the ambit of Public Authority as defined under Section 2(f)(iv)(B) of the Act.

26) The Commission has considered the arguments advanced by both the parties, gone through the facts of the case and perused the records, documents and case laws cited during the hearing. The Commission also recorded the arguments of the learned counsel appearing for the petitioners in which he had clearly brought out the objects laid down in the Memorandum of association which indicated and highlighted the dominance and deep pervasive control of the Government of J&K headed by the then Maharaja over the functioning of the bank. He quoted from the judgment of Hon'ble J&K High Court in its majority decision in the case titled Firdous Tanki and Ors. Vs. The J&K Bank Ltd & Ors. in which it has elaborately recorded the history of creation and establishment of J&K Bank Ltd by referring to the memorandum of the then Maharaja of State of Jammu and Kashmir dated 19-06-1939 which led to the creation and establishment of this bank and incorporation of the bank as a Government Company.

27) It was among others to advance and develop financial, commercial, industrial and agricultural interests of the Jammu and Kashmir State by providing a well organized proactive and efficient banking service in the State and accordingly, State Government had 92% share and 8 individuals

all belonging to both Jammu and Kashmir regions held only 8% share i.e. 1450 shares.

28) As elaborated above, the J&K Bank Ltd was not established by a particular individual or by a set of individuals but it was established by a wish, desire and commitment of a Sovereign Ruler who promulgated said wish, desire and commitment. It was a command of the Ruler in Whom were concentrated all legislative, executive and judicial powers. This can be seen from the Regulation No. 1 of Samvat 1991 (1934 AD). This Regulation consists of 46 Sections and is prefaced with statement of objects which reads as under:

“That it was the declared intention of the Late Maharaja to provide for the association of his subjects in the matter of legislation and administration of the State. The Regulation then provided for the establishment of Legislative Assembly for the State called the 'Prajya Sabha'. This declared intention became a law.”

29) Similarly, Late Maharaja's desire and wish to have a bank for the welfare of his subjects is a law covered in circular/notification etc and can fall under Section 2 (f)(iv) of the State Right to Information Act, 2009. It can fall even under Sub Clause (iii) of Section 2(f), because in Section 3 of Regulation No.1 of Samvat 1991 (1931), the late Maharaja Bahadur Hari Singh fully reserved all of pre-existing legislative, executive and judicial powers, thus it can be deduced that the creation of Jammu and Kashmir Bank Ltd by late Maharaja was not purely an Executive act but it was a Legislative act as well. Even after the establishment of Praja Sabha in 1934,

the late Maharaja's sovereignty did not diminish because Praja Sabha's decisions and enactment were subject to the final will of the Maharaja.

30) The Regulation No. 1 of Samvat 1934 was followed by proclamation of Jammu & Kashmir Constitution Act, 1934 which consists of 78 Sections and 5 Schedules and was not framed by any Constituent Assembly but was promulgated by His Highness, the Maharaja himself and under Section 5 of this Constitution Act "All powers, legislative, executive and judicial; in relation to the State and its Government are hereby declared to be and to have always been inherent in and possessed and retained by His Highness."

31) Even after the transfer of power to a new Government and cessation of sovereignty enjoyed by the Sovereign and with the promulgation of Constitution of Jammu and Kashmir State on 26th day of January, 1957, Section 157 of the said Constitution has given protection to "all notifications published, proclamations issued, powers conferred, jurisdiction vested, forms prescribed, local limits defined and orders, rules and appointments made under any Regulation, or Law or Rule enforced immediately before coming into operation of this Constitution and which are not inconsistent with any of the provisions of this Constitution shall be deemed to have been retrospectively published, issued, conferred, vested, prescribed, defined and made under this Constitution and shall remain in force until repealed or modified either expressly or by implication by competent authority".

32) The late Maharaja's Memorandum of 1930 ordering for the creation of Jammu and Kashmir Bank Ltd is thus covered and the commission holds that the J&K Bank Ltd is the creation of law executed by the Late

Maharaja's Government or the creation of the Legislature as per the discussion made above. The pervasive power and authority of the Government of the Late Maharaja is also demonstrated by an order under No.198-C of 1939 dated 10-2-1939 vide which the Government of the day asked the Registrar Co-operative Societies to invest their funds in the shares of Jammu & Kashmir Bank Ltd.

33) It is further important to note that the J&K Bank Ltd. continued its functions and working up to 1956 following the same notification or memorandum issued by the Late Maharaja, the Sovereign in whom was concentrated all powers of Legislative, Executive and Judicial nature. The learned counsel for the respondent Mr. Z. A. Shah could not satisfactorily explain before the Commission how the legal status of the Bank should be treated from the Oct. 1947 to 1956. The answer is simple that the Bank sustained and subsisted itself on the Memorandum of the Maharaja and later on was incorporated as a company in 1956. Even during Maharaja's time it was registered as a Government Company before the Registrar of Joint Stock Companies. The Bank was constituted under the Memorandum and Articles of Association of the Bank under the Jammu & Kashmir Companies Act Samvat(1920 AD) ix of 1977. The registration of the Bank under the Indian Companies Act, 1956 was a requirement to be fulfilled because of extension of certain Central Laws like Companies Act, 1956 to the State of J&K. This itself is elaborately discussed in the Memorandum and Articles of Association of the Bank. Several articles of this Memorandum clearly indicate the overwhelming control exercised by the Government on the Bank. It is the State Government which has power and authority to appoint three Directors of J&K Bank Ltd. The private Directors have no authority to

expel these Directors-the Government nominees. It is, thus, established that a minority of Directors being Government nominees exercise effective and real control on behalf of the Government. Though Article 71 of the Memorandum and Articles of Association of the J&K Bank Ltd. lay down that the Chairman will carry the management of the business of the J&K Bank Ltd. subject to control of the Board of the Directors, effective control is of the Chairman who has to be always a Government nominee with Government Directors to be on the Board of Directors during the pleasure of the Government.

34) Similarly, Article 72(e) of Memorandum and Articles of Association of J&K Bank Ltd. throws much light on the role of the Chairman and Government nominee Directors.

A close reading of this Article further highlights the domination and role of Government nominees on the Board of Directors. Similarly, the Chairman of the Bank is having another distinguishing feature which can be seen after quoting from Article 72 (e) of Memorandum and Articles of Association of J&K Bank Ltd. which reads as under:-

“regarding the conditions of the services of the employees of the bank and to nominate and appoint them and at pleasure to remove or suspend the employees as the Directors deem best for the management of the business of the bank, agents, officers, clerks, engineers, workmen and all other employees of the bank and to fix all remuneration, salaries and wages to be paid by the bank to officers respectively except in the case of Chairman/Chief Executive Officer of the Bank.”

However, as already stated Chairman/Chief Executive Officer has been made a permanent exception that he cannot be removed by the

Directors or even General Body of the shareholders. The complainants while stressing on this dominating position of the Chairman of the J&K Bank Ltd. being exercised during the pleasure of the Government referred to circumstances under which former Chairman of the Bank had to tender his resignation suddenly in 2010. The complainants could not be convinced that it was purely a personal decision. It is only the Government which could remove him. The Chairman who wields such enormous powers being a Government nominee, thus establishes the Government's dominating control over the organization.

35) The J&K Bank Ltd, with the passage of time, with the Government prompting and the directions, started travelling to other areas of public services and is discharging all public functions like implementation of Common Services Center (CSC) Scheme which is an important part of National e-governance programme (NEGP) of Government of India. The Bank was entrusted with the responsibilities of implementing this scheme in the State as a specific case by DIT on recommendations of the State Government. The Bank is entrusted with the scheme of interest subvention of Government of India also. Whatever schemes for last several years Government of Jammu and Kashmir have introduced for the welfare and economic betterment of its state subjects, the J&K Bank Ltd has been used as its own agency by the Government to make these schemes successful. Thus the Government of J&K has enjoyed defacto control over the Bank. These schemes are listed in the website of the Bank itself, for instance, Roshni Finance Scheme to provide finances to occupants desirous of acquiring free hold rights of the Government of Jammu & Kashmir. Only the permanent residents of J&K State are entitled to enjoy the benefits of this

scheme. Similarly, schemes of finances to the growers of the state, finances to traders, arthias, Commission & Forwarding agents and zafran growers are being implemented by the Government through J&K Bank Ltd.

36) J&K bank Ltd. is also playing an important role in implementation of seed capital fund scheme of J&K Government which is aimed at to provide finance to eligible candidates sponsored by JKEDI under the Seed Capital Fund Scheme of Government of J&K. It is highlighted on the website of the Bank,

37) The J&K Bank Ltd. is considered to be one of first state Banks in the country. According to the extended central laws to the State, the J&K Bank Ltd was characterized as a Government Company as per the provisions of the Indian Companies Act, 1956. In 1971 the Bank was accorded the status of Scheduled bank and in 1976 it was declared as 'A' class Bank by RBI. The Bank has more than 500 branches across the country presently.

38) Similarly, the Comptroller & Auditor General of India exercises its jurisdiction while auditing the Bank. The State Audit Authorities are also auditing the accounts of the Bank. All these factors strengthen Government Control and influence over J&K Bank Ltd.

39) For last few years the Government has further tightened its control over the Bank as is evident from the following happenings/events:-

- a) The State Legislature has established its authority over the Bank through Committee on Public Enterprise and directed the Bank authorities to appear before it and carry out the instructions and

directions for ensuring speedy recovery of loans advanced by the Bank. These developments are not mere formalities. They indicate that the Bank is a Public Authority within the definition of Section 2 of the State RTI Act, 2009.

b) The former Chairman of the J&K Bank Ltd. was suddenly asked to resign from the Chairmanship and he had to tender his resignation on 27-08-2010.

c) The Finance Secretary of the State was nominated as the Chairman of the Bank but later on, on Reserve Bank of India's intervention the collegium comprising of Finance Secretary and other Government nominated "Directors" were exercising the powers of the Chairman. The controller and Auditor General of India through its AG's office in Jammu and Kashmir Bank Ltd have also assumed jurisdiction over the Bank and the Bank has acquiesced in the said jurisdiction.

40) The CAG's audit control cannot be dismissed merely by saying that it is a requirement under the Companies Act 1956. Only the Government companies are subjected to such audit. Government companies are nothing but Public Authorities established, owned, controlled by the Government. The J&K Bank Ltd. may not be a 'State' as defined under Article 12 of the Constitution of India, but the Commission is of the considered opinion that it fulfills all the limbs of Section 2 of the State RTI Act, 2009.

41) The Commission as already stated above, is guided by the findings given by Hon'ble Delhi High Court in the case of Krishek Bharti Co-operative Ltd V/S Ramesh Chander Bawa WP(C) 6129/2007 of 14-05-2010,

wherein they have interpreted Section 2(h)(d)(i) of the Central RTI Act, 2005 which is akin to the definition given to the Section 2(f)(iv)(A) of State Information Act, 2009 for determining whether there is a control over the entity by the appropriate Government, the approach should not be to ask if there is a pre-determined or majority control or financing by the appropriate Government. The financing may not be a majority one and yet be a substantial.

The control does not mean that it should be totally dominating. The Hon'ble Delhi High Court has pertinently laid down the contours of such control which is relevant for our purpose as the facts of the case were same before Hon'ble Delhi High Court. Their finding reads as under:-

“At this juncture a brief reference may be made to the legal and ordinary meanings of the word “control”. The word “control” has been defined in Black’s Law Dictionary (6th Edn.) to mean “power or authority to manage, direct, superintend, restrict, regulate, govern, administer, or oversee. The ability to exercise a restraining or directing influence over something.” The Shorter Oxford English Dictionary (5th Edn.) defines it as “the act of power of directing or regulating; command, regulating influence” or “a means of restraining or regulating; a check; a measure adopted to regulate prices, consumption of goods etc. ”In both senses therefore the key word is “influence” and not necessarily “domination”.

As highlighted in the preceding paras, the J&K Government exercises its dominating influence and control through the Chairman of the Bank and through its Government nominee Directors. It has been also seen in the preceding paras that J&K Bank Ltd has always carried out guidance, instructions and wishes of the Government, whether it be granted extra ordinary overdrafts, whether it is subsidy schemes, whether it is the appointment and removal of the Chairman at the wish and pleasure of the

Government. Therefore, the Government has ‘defacto control’ over the multifarious activities of J&K Bank Ltd.

Financial Control:

42) Another limb in the definition of Public Authority given in Section 2 is the term ‘substantially financed by the Government’. Not only has the Government substantial financial control over the Bank by having 92% shares initially, which has been later on reduced to 53% not by de-investing or withdrawing or selling the shares but by the mere fact that no subsequent subscription, was made by the Government when the bank invited and floated a public issue in late 1990’s, but the following facts also clearly show that the Government of J&K enjoys “substantial financial control over the Bank:-

- a. The then Maharaja’s Government sanctioned construction of a building for J&K Bank at a piece of land under Khasra No. 105 measuring 10.5 kanals.
- b. The site plan of the proposed building received from the Divisional Engineer at the estimated approximate cost of about 45000 rupees be approved;
- c. That the building now at the site occupied by the Government Telegraph Office be retained and modifications carried out to make it suitable for the residence of the manager of the bank;.....
- d. That such other existing buildings at the site as required be demolished for citing new bank building (refer order No.638-C

of 1939 issued by Prime Minister on 5/7-7-1939 confirmed by Maharaja Bahadur on 10-7-1939).

43) We do not find merit in the argument of learned advocate Mr. Z. A. Shah that J&K Bank Ltd is a profit making company and that the State Government had merely made an investment in the Bank for earning profit. This argument is not tenable. The dominant role played by the then Maharaja's Government in establishing the Bank with 92% share capital and the interest taken, control exercised and guidance given by the successive Governments after 1947 make it abundantly clear that the intention of the State Government was not to earn profit but to nurture and flourish the J&K Bank as an organization of the State for the financial and economic prosperity and betterment of the people of the State. This intention continued with all Governments of the State even after 1947.

44) The Commission agrees with the learned counsel – who is himself a complainant that the J&K Bank Ltd has reached its present zenith and heights only because of the patronage of the State Government which nourish its programmes at appropriate times and but for the contribution of the State Government, J&K Bank Ltd would have not seen the light of the day.

45) The learned counsel of the complainants also rebutted the argument of the learned counsel of the respondent Bank Mr. Z. A. Shah that 53% share capital is not a substantial finance within the meaning of Section 2(f)(iv)(A) and 2(f)(iv)(B) by referring to various decisions given by Delhi High Court in the case titled Indian Olympic Association Versus Verish Malik & others, Krishek Bharti Co-operative Ltd V/s R. Chandra Bawa & others and IFCI

Ltd V/s Ravinder Balwani WP(c)4596/2007. In all its judgments, the Hon'ble Delhi High Court held that word "substantial" does not mean major. It has to be interpreted as an opposite as "insubstantial". If investment is not insubstantial then the body shall be said to be substantially financed. 92% initially and 53% later on is by no stretch of imagination unsubstantial.

46) The Commission also agrees with the learned counsel that if as an alternative, J&K Bank Ltd is presumed to be a non-governmental organization, even then being substantially financed by the State Government, it falls within the ambit of "Public Authority" under Section 2(f)(iv)(B).

47) The Hon'ble Delhi High Court has significantly and quite pertinently held in its judgment in the case of Krishek Bharti Co-operative Ltd V/S Ramesh Chander Bawa WPC 6129/2007 that one other aspect that needs to be mentioned is that 'control' or 'substantially financed" need not necessarily be in presenti and an entity had in the past been controlled or substantially financed by appropriate Government and has ceased to be so at present, need not cease to be "Public Authority" smacks potential for being so controlled or substantially financed in future exists. Also once an entity has been established or substantially financed by the appropriate Government at any time it acquires the tag of a "Public Authority" for the purpose of the RTI Act."

48) This ratio is exactly applied to the J&K Bank Ltd. It has been originally founded, substantially financed, overwhelmingly controlled and constantly guided by the Late Maharaja's Government, the successive

Governments of J&K after 1947 by and large continued with the same patronage and blessings to the premier banking institution of the state.

49) Now the Commission would go to State RTI Act, 2009 and to appreciate why the Act was promulgated. It is appropriate to understand the intention of the Legislature by enacting any fresh law. This intention is generally expressed in the preamble of said Act. It will be relevant to quote from the preamble of the Act which reads as under:

“An Act to provide for setting out the regime of Right to Information for the people of the State to secure for seeking access to information under the control of Public Authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a State Information Commission.....”

50) “Whereas, the Constitution of India has established a democratic Republic; and whereas, democracy requires an informed citizenry and transparency of information which are vital to its functioning and also accountable to the Government;..... whereas, it is expedient to provide for furnishing certain information to citizens who desire to have it.”

51) The J&K Bank Ltd. caters to the banking needs of millions of citizens of the State and also various other parts of the country. They have a stake in the functioning and working of this premier banking institution of the State. Hence it would be against the basic spirit of the intention of the State Legislature as expressed in preamble of the Act to deny the citizenry the ‘right to information’ with regard to J&K Bank Ltd. when the same is available to their countrymen in rest of the country so far their dealings with

nationalized banks and state bank are concerned. The only condition is that it must fulfill the definition given in Section 2 of the State RTI Act, 2009 which has already been established in this order in the paragraphs supra. It would be travesty of justice if any contrary finding is given.

52) Now the other issue which is before this Commission is to see whether Hon'ble J&K High Court's majority decision in the case of Firdous Tanki & Ors. V/S J&K Bank Ltd. & Ors. is relevant under the facts and circumstances of the case under our consideration. It would be appropriate here to be guided by the Hon'ble Apex Court of the Country. Let us see what ratio and principles have been laid down by the Hon'ble Supreme Court in this connection. Here one is reminded about the Hon'ble Apex Court's observation in the Padma Sundra Rao VS State of Tamil Nadu 255ITR147 and also in 255ITR1 and Poonamall and Sons (1974) 96ITR390 while approvingly quoting from British House of Lords decision, it has observed as under:-

“Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in setting of facts of a particular case, said Lord Morris in Herrington V/S British Railways Board (1972)2WLR537(HL). Circumstantial flexibility, one additional or different fact can make a world of difference between conclusions in two.”

53) The Hon'ble Jammu and Kashmir High Court in Firdous Tanki's case was concerned with a limited issue whether the J&K Bank Ltd. is a 'state' as defined in the Constitution of India under Article 12. Under Article 12 of the Constitution of India, "the State' includes the

Government and Parliament of India and the Government and the Legislature of each of the states and all local and other authorities within the territory of India or under the Control of Government of India.” Whereas, the definition of the “Public Authority” which is the subject matter of this decision is clearly distinguishable from this definition. As per Section 2(f) of the State RTI Act, 2009, “Public Authority” means: “Any Authority or Body or Institution of Self Government established, or constituted by or under the Constitution of India or the Constitution of Jammu and Kashmir”

- i. by any other law made by Parliament.
- ii. by any other law made by State Legislature.
- iii. by notification issued or order made by the Government; and includes any
[Body owned, controlled or substantially financed by the Government](#)”.

54) Thus it can safely be held that the Hon’ble Jammu and Kashmir High Court’s majority decision is clearly distinguishable from the facts which are under consideration. This Commission is seized of the issue whether the Jammu & Kashmir Bank Ltd is a Public Authority or not.

55) It is interesting to note that the Hon’ble J&K High Court in its majority decision in the case titled Firdous Tanki & Ors. V/S J&K Bank Ltd. & Ors, on the day heavily relied by the learned counsel of the Bank, the State RTI Act, 2004 was in operation. Under Section 2(f) of the then said Act, Public body shall include among other bodies:-

“A Government Company/Corporation incorporated in the Companies Act, 1956 (Central Act. No. 1 of 1956) in which not less than 51% of the paid up share capital is held by the Government or the trust

established by the Government under any law for the time being enforced or controlled by it.” This definition was not repeated in the present RTI Act, 2009, because of the obvious reasons that the State adopted the Central RTI Act, 2005 almost in its entirety and definition of “Public Authorities” in Section 2 of Central Act, 2005 has been adopted by the State Legislature in its original form. This definition is more general and intention of the Legislature by keeping such definition in the Act obviously was to be more general and wider than a restrictive definition given in the repealed Act of 2004.

56) Even the Hon’ble Jammu & Kashmir High Court in the majority decision in Firdous Tanki’s case on which the entire edifice of the learned counsel of J&K Bank Ltd was based has clearly laid down in the concluding para (55) of the decision that the ratio laid down in that decision was purely for a limited purpose of deciding whether the employees of the bank can exercise their right to invoke the writ jurisdiction of the Hon’ble High Court for protecting their service rights. It will be relevant to reproduce para 55 of Firdous Tanki & Ors. V/S J&K Bank Ltd’s case:

“In case where the respondent – Bank fails to file its statutory returns before the Reserve Bank of India, or for that matter the Registrar of Companies or commits any statutory breach of its obligation under any statute, the statement made by us hereinabove that we cannot compel the respondent-Bank to surrender to the jurisdiction of this Court, cannot be utilized as a sweeping statement not to compel the bank to exercise its statutory duties In an eventuality where the Bank or for that matter any other organization dealing with public fails to discharge a statutory duty and such failure affects the public at large or is considered to be against the public interest, the

court can exercise its writ jurisdiction to compel the performance of statutory duties. However, the case of individual like the employees of the Bank which are governed by the contracts or settlement between the employees and the management cannot be enforced nor its breach rectified by exercising the power of judicial review, it being purely in the realm of contractual or private rights not governed or regulated by statutory provisions.”

57) Therefore, with due regard and deference to Hon’ble J&K High Court’s majority decision, the ratio laid down therein is not to be blindly followed. The facts before this Commission are whether J&K Bank Ltd., a Government Company under Companies Act, 1956, is a Public Authority under the State RTI Act, 2009. It is pertinent to know that when this judgment was delivered by the Hon’ble J&K High Court, the definition as given in the State RTI Act, 2004 had expressly covered J&K Bank Ltd., a Government Company, to be a Public Authority. The fact that the Hon’ble J&K High Court did not touch this issue at all in the above decision shows that the Hon’ble Court intentionally did not do so as it was not concerned with the State RTI Act at that time. Hence, Hon’ble J&K High Court’s decision is distinguishable because this decision is to be seen entirely from a different angle and different perspective and the words “owned, controlled and substantially financed by the Government” have to be interpreted in the context of J&K RTI Act, 2009 and its objects and not in the context of the ‘State’ as defined under Article 12 of the Constitution of India. This issue has also been settled by courts by observing that what may be a ‘Public Authority’ for the purposes of the RTI Act need not be a state under Article 12 of the

Constitution of India. It is the context of transparency and accountability of accessibility of its working to the public that controls the interpretation of the expression “A Public Authority, not the amenability of judicial review of its decisions (Krishak Bharti Co-operative Ltd. V/S Ramesh Chander Bawa, WP (C) 6129/2007 of Delhi High Court).”

58) The Commission is guided by the judgment in the case of Krishek Bharti Co-operative Ltd V/S Ramesh Chander Bawa WPC6129/2007 pf 14-05-2007 that one other aspect that needs to be mentioned is that ‘control’ or ‘substantially financed’ need not necessarily be substantial and any entity which has been in the past controlled or substantially financed by appropriate Government and has later on ceased to be so at present, need not cease to be a public authority. Also, once an entity has been established or substantially financed by the appropriate Government at any time, it acquires the tag of Public Authority for the purpose of RTI Act.

59) Thus having regard to the above discussion, the Commission declares the J&K Bank (Ltd) to be a **“Public Authority”** as defined in Section 2 of the J&K RTI Act, 2009 fulfilling the conditions therein.

60) Accordingly having declared the J&K Bank Ltd. to be a **“Public Authority”** as defined in Section 2 of the State RTI Act, the Chairman / Chief Executive Officer of the Bank is directed to designate First Appellate Authority/Authorities, Public Information Officer/Officers and Assistant Public Information Officers as provided under Section 5 of the RTI Act. His attention is specifically invited to Section 5 of the State RTI Act 2009 which

enjoins upon Public Authorities to designate as many officers as Public Information Officers in all administrative units or offices under it as may be necessary to provide information to residents of the state seeking such information under the Act. The applications made to the Chairman/Chief Executive Officer, and other executives of J&K Bank Ltd by various complainants who have filed complaints before this Commission, be forwarded to the concerned Public Information Officers and they be directed to dispose of those applications in accordance with the provisions of Section 7 of the State Right to Information Act. The Chairman of the Bank shall also kindly take necessary steps to impart training and sensitize the officers so designated about the various provisions of the State RTI Act, 2009 read with State RTI Rules, 2010. In this connection if the Bank desired any assistance and guidance of this Commission, the Commission may be approached and requested for doing the same. The Chairman being the Public Authority of J&K Bank Ltd is also directed to ensure the implementation of provisions of Section 4 of the Act.

61) No penalty proceedings are initiated as prayed by a few complainants because the respondent Bank had a reasonable belief that it is not a “Public Authority” as defined under Section 2 of the State RTI Act, 2009 and also because of their reliance on the Hon’ble J&K High Court’s majority decision in the case titled Firdous Tanki & Ors V/S J&K Bank Ltd. & Ors. Also the respondent has passed the order in good faith and his action is thus covered under Section 18 of the State RTI, 2009. Similarly, no direction is given for awarding compensation as prayed by one of the complainants because of the reasons given above.

62) While concluding it would be appropriate to refer to the learned counsel of the respondent Mr. Z. A. Shah (who otherwise made an excellent exposition) was apprehensive, that in case the J&K Bank Ltd is declared a “Public Authority” and is brought under the ambit of State RTI Act, 2009, it will open flood gates for certain exploiters with vested interest to make frivolous applications which may breach the trust between the banker and depositors. Banking institutions are generally based on the trust and confidence of depositors and the bank and the dealings with the depositors would, thus, be under a severe threat of being misused. The Commission does not dismiss this apprehension altogether, the possibility cannot be discounted. However, the Commission has brought the attention of learned counsel to adequate safeguards provided in the Act under Section 8 particularly Sub Section (d), (e) and (i) and Section 10 and 11 of the State RTI Act, 2009 and Commission hopes that with proper training to PIOs and FAAs, the safeguards given in these provisions of law will be fully implemented if the facts of the case so warrant.

63) The order be given effect within one month from the date of its receipt.

64) All the complaints are accordingly disposed of.

Sd/-
(Nazir Ahmad)
State Information Commissioner

Sd/-
(Dr. S.K.Sharma)
State Information Commissioner

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

Copy to:

- 1/- Shri MushtaqAhmad, Chairman, J&K Bank Ltd, Rail Head Complex.
- 2/- Shri Vilakshana Singh (Advocate), Sidhra By Pass, Opp. Eicher Workshop, Sidhra, Jammu.

- 2/- Syed Nasrullah, S/o: Syed Mehboob Shah R/o: Teng Pora, Zoonemar, Srinagar (9419013010).
- 3/- Dr. Varun Suthra, Chief Reporter, Newspoint, Satyam Vihar, Trikuta Nagar, Jammu (J&K).
- 4/- Syed Immamul Ansarulla, S/o: Syed Gh. Hassan R/o: Naidkhai, Sonawari.
- 5/- Shri Raman Sharma, R/o: K-236 Mast Garh, Jammu.
- 6/- Shri Sunal Mahajan S/o Shri Rajeev Mahajan, 1/142 Vikasnagar, Subashnagar, Jammu, J&K Pin-180005.
- 7/- Ms. Shalini Gupta, 33 Mast Garh, Jammu-180001, (9419124608).
- 8/- Shri Dineshwas Singh Jamwal R/o: 308/11 Shakti Nagar, Jammu.
- 9/- Shri Chuni Lal Raina R/o: Mohalla Barian Ward No. 5, Behind SBI Udampur-182101, J&K.
- 10/- Guard File.

Encls: Annexure (I)- 2 pages.

(Mohammad Syed Shah)
Registrar,
State Information Commissioner, J&K.
/MA/

Annexure (I) to Commission's Decision No.SIC/Comp/35/2010/ Dated:
24-04-2012.

Information Sought from Chairman, J&K Bank Limited from the following complainants:

1. Shri Raman Sharma:

- “1 Provide me a copy of list showing total number of appointments made in the Jammu and Kashmir Bank during the period 01/Jan/2009 to 30/April/2011.
- 2 Provide me a copy of list showing name, age, address, category, Educational Qualification and designation of the appointees that are appointed in the J&K Bank during the period 01/Jan/2009 to 30/April/2011.
- 3 Give detail of total amount of money spent by the Jammu and Kashmir Bank for the purpose of Corporate Social Responsibility during the period 01/Jan/2009 to 30/April/2011. Give month-wise detail.
- 4 Copy of list showing name, address and profession of all the defaulters of the J&K Bank who have liability of more than Rs.50 lacs, Rs.5000000.00.
- 5 Also provide me a copy of list showing name, address of the guarantors in the above said defaulters list.”

2. Shri Sunal Mahajan:

.....Particulars of information solicited:

“ (a) Subject matter of Information – J&K Bank, Banking Associate – Cash Management Service Recruitment 2011.

(b) Specific Data of information required :

- i) What are the marks in each section, including interview of the candidate appearing vide Roll No. 2217006131.
- ii) What are the cut of marks in each section for the general category.
- iii) What are the highest and lowest marks given in the interview.
- iv) Marks of the last candidate who got the final selection including interview.
- v) Highest marks secured by the candidate in the written examination.
- vi) No. of candidates selected from Jammu, Kashmir and Ladakh separately.
- vii) What is the rank of the candidate appearing vide Roll No. 221700613 according to merit.”

3. Ms. Shalini Gupta.

“Kindly furnish all the documents pertaining to the firm M/S A. K. Gulshan Kumar Mohalla Malhotra Street Down, who are operating their cash credit limit vide No. 115 through your Branch.”

4. Shri Dineshwar Singh Jamwal:

- “(i) Kindly provide details of the total number of candidates, who applied for the post of Bankin Associates in Cash Management Services in 2011.
- (ii) Kindly give details of the candidates, who qualified the written test from Jammu Region and Kashmir Region separately for the post referred at (i).
- (iii) Kindly give the names and addresses of the candidates finally selected for the post of Banking Associates in Cash Management Services for the year 2011. The information should also give the names of the branch(s) where these candidates have been finally posted in 2011.”

5. Shri Chuni Lal Raina:

Information required:

“Late Sh. Ved Parkash Raina R/o Housing Colony Phase II Plot No.31 Udhampur who expired on 23-11-2009 has left some balance in his Savings Bank Account No.1359/14 in your Bank. This amount is yet to be paid to the legal heirs of the deceased after obtaining authority letter from the Hon’ble Court Udhampur.

Therefore, you are requested to intimate the undersigned the total amount payable including up-to-date interest i.e. up to your date of reporting, so that the full claim can be presented before the Court through our Advocate for its final disposal. Matter may be treated as most urgent.

ii) Prevalent rate of interest be also noted down for our information and knowledge.”