



**Jammu and Kashmir State Information Commission**

جموں اینڈ کشمیر سٹیٹ انفارمیشن کمیشن

(Constituted under The Right to Information Act, 2009)

Wazarat Road Near D.C. Office, Jammu, Fax No. 0191-2520947, 2520927  
Old Assembly Complex, Srinagar. Fax No. 0194-2484268, 2484269

www.jksic.nic.in

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To,

**The Chief Secretary,  
J&K**

No. SIC-J/15/2009-II/3643

Dated:- 11-04.2012.

**Subject:- Proceedings under Section 15 of State RTI Act 2009  
read with State RTI Rules, 2010.**

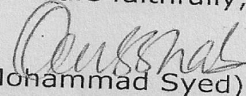
Reference:- 1. No. SIC/J/15/2009-11/657 dated 13.02.2012.  
2. No. SIC/J/15/2009-11 dated 27.02.2012.

Sir,

I have been directed to forward a copy of the Commission's Order/Directions passed by the Commission. This order/Directions has been passed in view of Commission's earlier communication No. 2 referred above, copy of which was personally handed over by me to Secretary to Govt. Law Department.

Encls. Three

Yours faithfully,

  
(Mohammad Syed) 11/4/12

Registrar,

State Information Commission



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File No.SIC-J/15/2009-II

The Chief Secretary,  
J&K Government,  
Jammu.

**Decision No. SIC/J/15/2009-II/103**

Sub: Proceedings under Section 15 of State RTI Act, 2009 read with State RTI Rules, 2010.

Ref: 1. No. SIC/J/15/2009-II/657 dated: 13-02-2012 &  
2. No. SIC-J/15/2009-II Dated: 27-02-2012

**05/04/2012**

The State RTI Act, 2009 came into force with effect from 20-03-2009. Vide Section 4 of the Act, it is mandatory upon all Public Authorities to make a suo moto disclosure of information possessed by them in the manner and form which facilitates the right to information under the Act. Since the establishment of the Secretariat of the Commission in 2010 and immediately after the constitution of the Commission with the appointment of Chief Information Commissioner, the Commission requested the Government to take necessary steps for implementation of the said provisions of law. The correspondence in this regard is part of the record of this Commission. The Commission also discussed this issue with the Chief Secretary of the State during the proceedings under Section 15 of the Act. The Chief Secretary to the Government of Jammu & Kashmir, deposed before the Commission about the steps taken by the Government. He also deputed Secretary, General Administration Department who submitted a bunch of circulars/instructions etc issued by the Administration on the implementation of the State Right to Information Act, 2009.

The Commission has perused these circulars/instructions and review notes. The details of these review notes and circulars/instructions/DO letters are given hereunder:

- 1) Circular No. 25-GAD of 2009 dated: 05-06-2009.
- 2) will be incorporated
- 3) DO No. ITD/Genl/89/2009-1 dated: 02-01-2012

2) The perusal has shown that the administration after issuing two circulars in 2009 and 2010 did not later on pursue the issue of implementing Section 4. Nothing has been brought on record to show that there has been any follow up action by the Administrative Secretaries after issuing of initial circulars in 2009 and 2010. The circular issued in January 2012 is obviously the result of persistent efforts made by the Commission for implementation of Section 4. The Commission considers that if periodical reviews as envisaged in Circular No.25-GAD of 2009 dated: 05/06/2009 were made with particular emphasis on the implementation of Section 4 of the Act, the results would have been better.

3) The Commission Secretariat was tasked to scan through the websites of various administrative departments and those of the HODs subordinate to such administrative departments and to report status of uploading of the information as mandated in Section 4 of the Act. The results of this exercise are not so encouraging. Of the 36 listed administrative departments (Civil Secretariat level), 23 departments have opened the websites, 3 departments have hosted Section 4 on websites and 20 departments have displayed particulars of PIO/FAA. Similarly, out of 204 listed subordinate departments (HODs)/line departments, 94 have launched the websites, just 10 have prepared and uploaded the voluntary disclosure of information under Section 4 and 35 have featured the particulars of PIO/FAA. Thus, the compliance with statutory provisions of Section 4 leaves much to be desired as more than 50% of the Departments are yet to think of creating their websites not to speak of hosting information thereon. A detailed analysis and study is made as per annexure (I) attached. The Chief Secretary may please go through this annexure.

4) The State RTI Act will not be fully implemented till the mandate given by the State Legislature to the Government under Section 4 is fully carried out. Therefore, as 1<sup>st</sup> step the Commission recommends that the Nodal Department i.e. General Administration Department will issue a time frame of maximum one month for the above identified public authorities to fully implement Section 4 and make a suomoto declaration on their websites with a copy to this Commission.

Though there has been appreciable work in designating and appointing PIOs, APIOs and 1<sup>st</sup> Appellate Authorities; it has been noticed that there are still certain public authorities who have not at all designated such authorities. The details of such public authorities have been given in the annexure (I). These authorities may kindly immediately be directed to discharge the legal obligation cast on them under Section 5 of the Act.

5) The attention of defaulting Public Authorities may be drawn to Rule 45 of State RTI Rules, 2010.

6) The Commission has observed for last one year that the role of the institution of APIO has not been appreciated and understood in the manner which is envisaged in the Act. APIOs are generally to be designated for those far flung areas where officers who are to be made PIOs are not posted. Secondly, the role of APIO is only to collect the applications under Section 6 from the information seekers and also appeals and complaints addressed to the Commission and forward the same to the concerned PIOs and the Commission. Certain APIOs have passed orders under Section 7 of the Act which is against the provisions of the Act. The public authorities may be appraised accordingly.

7) The Commission has also noticed that various senior officers of the rank of Commissioners/Secretaries/HoDs have been designated as 1<sup>st</sup> Appellate Authorities and officers of the level of Special Secretaries have been made PIOs. Appreciating the busy schedule of such senior officers and their responsibilities, the Commission had number of times brought to the notice of Public Authorities that the Act intends that officers of the level of Under Secretary and above be designated as PIOs and that of the level of Additional Secretaries be designated as 1<sup>st</sup> appellate authorities.

8) A feed back may please be sent to the Commission within a month from the date of receipt of this order.

-Sd-

( S. K. Sharma)  
State Information Commissioner

-Sd-

(G. R. Sufi)  
State Chief Information Commissioner