

papers. It is further alleged that PIO had to provide the information within 3 days positively but instead PIO preferred to send information through Speed Post, though his village is only 3 kms away from the office of BDO. He has accordingly requested the Commission to take cognizance of the matter and issue directions in this regard to BDO concerned to provide information to him.

Facts of the case are that Second Appeal filed before the Commission was decided on 25.07.2013 and upholding the decision of FAA dated 28.05.2013 directing PIO/BDO to provide information sought by applicant after charging additional fee as per Rule 4 of J&K RTI Rules 2012.

In response to the notice of the Commission for allegedly sending blank paper, PIO/BDO submitted his reply/counter statement alongwith 13 enclosures as under:

***“That the u/s received a letter from SIC with the direction to attend the J&KSIC office Srinagar along with ACD on 25.07.2013, and both the officers attend the office on said date, and directions were passed that information shall be provided to the seeker within weeks time after he deposits the contingent charges and the draft of Rs. 720/- has been deposited by Javaid Rasool Malla who always represented himself on behalf of his brother M. Asharf Malla as mentioned earlier.*”**

That desired information was sent to his residence on 3.8.2013 through VLW and along with deputy Sarpanch of the same Halqa Shamsipora. But after an hour or so the VLW came back saying that M. Ashraf Malla first received the information and then said the information is not in order, and the VLW explained to him that each page is self explanatory i.e., name of the work is mentioned, detail of the work is mentioned on the M. Book, name of the labour is mentioned along with amount is paid on advise sheet, but even then he refused to receive the information, saying that BDO should deliver information himself at my resident.

That u/s knowing the bad intentions of the RTI seekers didn't waste any time and myself straight away went general post office Anantnag and posted the same information to the address of M. Ashraf Malla. (post office receipt enclosed).

That if the said information would have been blank pages no wise person would have sent it by hand it is evident from the fact that information is in black and white and question of blank pages does not arise which again reveals their intention how the three brothers are deceiving the Commission and playing with honor and respect of the Government officers/officials, which is very much unfortunate.

That some left over information was sent on 05.08.2013 through same post office which was refused to receive by the seeker and was delivered back to our office 21.08.2013 again revealing the bad intentions of RTI seeker and exploiting of RTI Act, such type of RTI seeker have only motive to harass, black mail, and waste previous time of Govt. offices on just meager amount of RTI fee of Rs. 10/- (copy enclosed).

These three brothers M. Ashraf Malla, Javaid Rasool Malla and Showkat Rasool Malla they are exploiting the RTI Act for their vested interest, their main aim is to black mail the govt. employees either harass them their honor, respect and image or getting their illegal works done, here they failed to get these benefits at the cost of poor deserving people. (PRIs and other citizens of the same village are here at SCI office in this context I request they may be lessened).

What has been mentioned above is genuine before man and God, please do the justice if we are at guilty should be punished and the seeker is that guilty they need to be punished as well so that RTI Act couldn't be misused and exploited".

During proceedings on 10.12.2013, BDO produced documentary evidence regarding left over information sent by

him to information seeker on 05.08.2013 by Post which has been refused by him and delivered back to BDO's office on 21.08.2013.

Shri Riyaz Ahmad, VLW through whom information was reportedly sent on 03.08.2013 alongwith witness Shri Gul Mohammad, Deputy Sarpanch appeared as witness confirmed before the Commission that information delivered by them was returned by the applicant. However, BDO was asked to submit affidavit of the witness duly attested by notary.

Sh. Showkat Ahmad Malla brother & authorized representative of appellant appeared before the Commission on 10.12.2013 alongwith 2 open envelopes containing blank papers allegedly sent by BDO. However, he submitted that to counter the witnesses of respondent, the appellant shall appear on the next date of hearing, for which he sought adjournment. However, no written statement was filed by the appellant other than the complaint under reference.

In compliance to the directions of the Commission conveyed vide letter dated 12.12.2013, BDO produced/submitted the affidavit of Shri Riyaz Ahmad VLW and Shri Gul Mohammad Deputy Sarpach, reaffirming their statement made before the Commission on 10.12.2013 to be true and correct.

Opportunity was also given to the information seeker vide notice dated 12.12.2013 to appear in person on the next date of hearing alongwith his rejoinder to the counter statement of BDO (copy enclosed). However, the Commission received a Fax from the complainant dated 19.12.2013 stating therein that due to some health problems and advice of doctor for complete bed rest, he cannot appear personally on said date and requested that date of hearing be postponed to enable him to counter the allegations made by the PIO/BDO.

The complainant however failed to submit his rejoinder as directed by the Commission.

Upon perusal of records the Commission has observed :-

1. that while the complainant has admittedly received two envelopes allegedly containing blank papers on 05.08.2013, he has filed complaint on 03.09.2013 after a gap of 29 days. Why he did not return the envelopes immediately to BDO and delayed filing of complaint before Commission after a gap of 29 days is not explained.
2. That as per evidence brought out on record, left over information sent through Registered Post on 05.08.2013, has been returned back by post office as “refused”.
3. It is also observed that the complainant has not made any mention of the information having been delivered to him through Dasti (Process Server) whereas the respondent had produced evidence admissible under the rules.

In view of the above, BDO cannot be held responsible for not delivering the information. However keeping the spirit of the RTI Act in view, the PIO/BDO shall provide another set of

information to the information seeker after payment of prescribed fee by the information seeker on account of charges of new set within two weeks from issue of this order. This time frame shall be applicable to both the parties.

The information should be delivered to the information seeker in presence of witnesses.

Sd/-
(Nazir Ahmed)
State Information Commissioner

Copy to the:-

1. Block Development Officer, Qaimuh Kulgam.
2. Haji Mohammad Ashraf Malla S/o Gh. Rasool Malla R/o T. Tachloo Anantnag.