



Jammu and Kashmir State information Commission
(Constituted under The Right to Information Act, 2009)
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Old Assembly Complex, Srinagar. 0194-2484269, 2484262
www.jksic.nic.in

File No: SIC-K/Temp/19/2013
Decision No: SIC-K/Temp/19/2013/**48**

Title: Shri Aarif Hussain Shah v/s PIO University of Kashmir
r/o Buchpora, Srinagar (Respondent)
(Appellant)

Present: 1. Shri Abdul Rashid Sofi, PIO University of Kashmir.
2. Shri Aarif Hussain Shah, Appellant

Srinagar
28.05.2013

The Commission at its Jammu office received Second Appeal from Shri Aarif Hussain Shah r/o Al-Farooq Colony, near CRPF Camp, Ahmad Nagar Road, Buchpora, Srinagar on 12.02.2013 against PIO University of Kashmir for alleged deemed refusal to provide information within stipulated period. As the issue pertained to Kashmir wing of the Commission, same was transferred and received at Srinagar on 20.03.2013. Accordingly notice was issued to FAA / PIO University of Kashmir for their comments and status of RTI application under reference within 07 days. Since no response was received within stipulated time from the FAA/PIO University of Kashmir, the appeal was accordingly registered on 10.04.2013.

In his appeal the appellant has alleged that PIO has not provided information to his RTI application dated 25.10.2012 sent by him through Speed Post alongwith requisite fee. He has further submitted that he subsequently filed First Appeal on 26.12.2012 but FAA has failed to provide any information and hence he filed Second Appeal. Appellant has accordingly requested the Commission to provide complete informed to him, to compensate the applicant and to penalize PIO under section 17 of the Act.

In response to the notice of the Commission, PIO University of Kashmir has submitted counterstatement against Second Appeal stating that an earlier RTI application dated 09.11.2011 received from the same appellant on 11.11.2011 was disposed by them. Since the application involved payment of Xerox charges, the applicant was issued an intimation on 10.12.2011 (copy enclosed) to attend the University PIO Office on any working day and deposit the Xerox charges of required material. Despite issuance of two more reminders on 05.01.2012 & 19.01.2012 (copy enclosed) the applicant failed to attend the office. PIO stated that the above communication were sent through Registered Post and produced evidence in this regard.

Thereafter PIO Office received two documents viz. RTI application dated 25.10.2012 (though a photocopy of his earlier application dated 09.11.2011 with some additional issues included in it) and a copy of counter reply through Registered Post on 05.11.2012 from the applicant. Further vide para 8, PIO has stated that while the informative material had already been collected in respect of his above referred application viz. 09.11.2011, but the same could not be delivered to him due to the aforesaid reason (i.e., for not depositing Xerox charges). Copy of counter statement has been marked to appellant as well.

PIO during hearing clarified that he did not receive the RTI application accompanied by prescribed fee as reported to have been sent through

Speed Post by the appellant; instead a copy of said application along with a copy of counter reply was received as stated in para 4 of reply stated above. The appellant however produced receipt of Post Office which is addressed to Pub. Information Officer University of Kashmir dated 01.22.2012 alongwith original counter foil of the postal order of Rs. 10/- dated 25.10.2012 as evidence of having deposited the fee. PIO submitted that most of the information asked for by the appellant is same as asked for by him vide RTI application dated 09.11.2011 whereunder he was asked to deposit Xerox charges which he failed to deposit.

Heard parties and perused records.

In the Second Appeal, the appellant has stated that he submitted RTI application dated 25.10.2012 alongwith stipulated fee of Rs. 10/- in shape of IPO vide No. 68E 145988. During hearing he produced original counter foil of said postal order which bears the same number as mentioned in his appeal. It is therefore evident that requisite fee have been deposited in the prescribed format though reportedly not received by the PIO.

In view of above, PIO University of Kashmir is directed to dispose of the RTI application dated 25.10.2012 under section 6 of the J&K RTI Act, 2009.

With regard to receipt of RTI application through Speed Post, no acknowledgment was produced by the appellant. As per RTI Rules 2012 para 9, medium of services has been defined as "through Registered Post with acknowledgement due". Therefore appellant is given an opportunity to produce further evidence of his RTI application having been received by the PIO University of Kashmir, within two weeks from pronouncement of this order.

As per records enclosed with the appeal, the appellant has filed First Appeal before FAA University of Kashmir, which has not adjudicated by her as per records. The FAA sought exemption from appearance as she is in the middle of workshop, which is accepted. However, FAA University of Kashmir is directed to

explain as to why she has failed to adjudicate First Appeal filed before her by the appellant as required under section 16 of the Act.

The appeal is disposed of accordingly.

Sd/-
(Nazir Ahmed)
State Information Commissioner

Copy to the: -

1. Shri Abdul Rashid Sofi, Public Information Officer, University of Kashmir.
2. Aarif Hussain Shah r/o Al-Farooq Colony, near CRPF Camp Ahmad Nagar Road, Buchpora, Srinagar.

(Mohammad Sayed Shah)
Registrar,
J&K State Information Commission