



Jammu and Kashmir State information Commission
(Constituted under The Right to Information Act, 2009)
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File No: SIC-K/SA/20/2013
Decision No: SIC-K/SA/20/2013/65

Title: Haji Mohd. Ashraf, v/s BDO Qaimoh
S/o Gh. Rasool Malla
(Complainant)

Present: 1. Shri Mohammad Rashid, ACD Anantnag.
2. Shri Shabi Ahmad Wani, BDO Qaimoh.
3. Shri Showkat Ahmad Malla (Rep. of Appellant).

Srinagar
25.07.2013

This is a Second Appeal filed in the Commission on 28.06.2013 by Shri Haji Mohd. Ashraf s/o Gh. Rasool Malla r/o Turka Tachloo, Anantnag against PIO/BDO Qaimoh Kulgam for not providing information under RTI Act, 2009.

Records enclosed with the Second Appeal reveal that RTI application accompanied by fee of Rs. 50/- deposited in Anantnag Treasury, has been submitted by the appellant before PIO/BDO Qaimoh Kulgam seeking following information: -

1. Complete details of works plan of village Turka Tachloo Halqa Samsipora Anantnag for the year 2011-12 & 2012-13 under various schemes.
2. Who are the works executing employees in block Qaimoh, complete details as name, date of joining in BDO Office Qaimoh, present post with

responsibility of duty & area of present posting from which dte of (AEEs, Junior Engineers, works supervisors, VLWs, Helpers etc.).

3. Complete details alongwith Xerox copies of measurement books, works registers, muster roll details, completion reports with photographs, material sheets/vouchers of works executed in village Turka Tachloo, Halqa Shamsipora Anantnag under various schemes in year 2011-12 & 2012-13.
4. Complete details of pending works/estimates of village Turka Tachloo under works plan of 2012-13 & present status of these works.

As the information seeker did not receive the response within prescribed period, he filed First Appeal before FAA/ACD Anantnag on 14.05.2013 stating that he approached PIO/BDO Qaimoh seeking some information about works carried out by BDO Office Qaimoh but that the concerned PIO had not paid any heed towards it and showed least response and compliance with the provisions of RTI Act of the State and has prayed FAA to take cognizance of the matter and provide information to him.

Meanwhile BDO Qaimoh vide letter No. QB/2013-14/461 dated 18.05.2013 has informed information seeker to deposit Rs. 3600/- in the official account of BDO Qaimoh for getting the information @ Rs. 10 per sheet so that the information sought by him can be provided.

During hearing Shri Mohammad Rashid FAA/ACD Anantnag produced copy of order passed by him in the First Appeal vide No. ACDA/RTI/2013-14/2589-93 dated 28.05.2013, operative part of which is as under: -

“Whereas after going through the appeal, application and counter statement of PIO(BDO Qaimoh), the appeal is hereby disposed off with the direction to PIO (BDO Qaimoh) to provide the applicant the information sought by him after charging additional fee as per Rule 4 of J&K RTI Rules 2012 issued vide SRO 279 dated 30.08.2012 within 3 days positively”.

Heard parties and perused records.

At the outset, the Commission is pained to note that PIO has belatedly passed an unreasonable order in contravention of standing rules by asking applicant to deposit fee @ 10/- per page as per RTI Rules 2010 which has since been repealed and new fee structure has been prescribed in RTI Rules 2012. This fact has been brought to his notice by the information seeker as is evident from letter dated 22.05.2013 enclosed with the appeal. Further, this order has been passed after expiry of mandatory period of 30 days.

It has been noted that fee accompanying RTI application has not been paid as prescribed under J&K RTI Rules 2012, therefore RTI application cannot be treated as complete in all respects. But the RTI application having been accepted by PIO, orders passed by the FAA is upheld and PIO is directed to comply with order of FAA passed on 28.05.2013 within one week from issue of this order.

It has been noted that BDO Qaimoh has not bothered to comply with the orders of FAA even after lapse of more than 1 ½ months wherein he was directed to provide information to the information seeker after charging additional fee as per Rule 4 of J&K RTI Rules 2012 within 3 days positively. Therefore, BDO Qaimoh is liable for action under RTI Act. He is directed to explain within 2 weeks as to why penalty under section 17 of J&K RTI Act, 2009 shall not be imposed on him for ignoring the order of FAA, who happens to be his immediate officer.

Registry of the Commission shall inform the Commissioner/Secretary to Government Rural Development Department, that the Commission in numerous cases have observed that officers of the Rural Development Department dealing with RTI are not fully conversant with various facets of the RTI Act and are

ignorant of the Rules 2012, promulgated vide SRO 279 of 2012 as is evident in the instant case. He may accordingly be advised to organize training programmes/workshops for FAA & PIOs of Rural Development Department in consultation with IMPA and SIC to sensitize the officers about implementation of RTI Act/Rules.

Sd/-
(Nazir Ahmed)
State Information Commissioner

Copy to the: -

1. Assistant Commissioner Development, Anantnag.
2. Block Development Officer Qaimoh.
3. Shri Haji Mohd. Ashraf s/o Gh. Rasool Malla r/o Turka Tachloo, Anantnag.

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