

by every candidature who had participated in the process of selection among the process servers.

That appellant made a written request on 09.04.2013 before the concerned PIO requesting to furnish necessary information viz. **the type test papers of qualified officials conducted by the department for promotion from process servers to Junior Assistants since 1990 to 2013**, but the said information was furnished to the appellant neither by PIO nor by Additional Commissioner Tax Officer, Excise and Taxation Administration Kashmir in pursuance of an appeal preferred on 15.05.2013. These factors constrained the appellant to file 2nd appeal before the Commission alongwith enclosure. The appellant is aggrieved of the same and therefore, filed 2nd appeal on the following grounds:-

Non disclosure of information sought under RTI Act 2009 viz-a-viz **the type test papers of qualified officials conducted by the Department for promotion from process servers to Junior Assistants since 1990 to 2013**.

He has therefore, prayed that in view of the submissions made above, requested the Commission to provide necessary information as asked for in the RTI application and first appeal.

The appeal was received on 26.07.2013 and notice was issued to FAA on 07.08.2013 asking for his report for failure to adjudicate the appeal, followed by reminder on 09.09.2013. Reply of FAA was received on 17.09.2013 informing the Commission that detailed report alongwith available information with copies of postal envelop/receipt was submitted vide No. 1027 dated 26.08.2013.

The case was listed on 07.10.2013 after receipt of this report on 17.09.2013 thereby requiring extension beyond the prescribed period of 60 days fro disposal

of appeal. For these reasons the period of appeal is extended upto 10th October 2013.

As per records produced before the Commission, RTI application has been disposed of by Shri Tahir Ajaz, Commercial Taxes Officer (PIO) addressed to the information seeker on 09.05.2013 whereunder information for the year 2010 and 2011 comprising of answer sheets and question papers have been sent to him. The information seeker has also been informed about the address of First Appellate Authority in case he is not satisfied with the information. Thereafter First Appeal has been filed before Additional Commissioner (FAA) on 15.05.2013 alleging non disclosure of information. This First Appeal has been adjudicated by the FAA vide order No. RTI-Adm/477-78/ACCK dated 24.06.2013as under: -

“The request was disposed of by the PIO by informing the applicant that the said information consists of 18 pages and pertain to two type tests conducted on two occasions, by the Department but the applicant has refused to accept it, and accordingly the same information was dispatched by Registered Post and same has been returned back by the postal department with the remarks that addressee has refused to accept it. Thus the question of denial of information by the PIO does not arise.

Subsequently the appellant was called and informed that as per records available in this office the information was given to him by the PIO. It is absolutely impossible for this department to provide the information of last 23 years as same is not available in this office”.

Accordingly the information as mentioned in the order of the PIO was sent through Registered Post.

PIO produced registered cover of post office under which information was sent to the information seeker on 09.05.2013 on the address given in the RTI application i.e., Mohammad Ahsan Mir r/o Darwan, Yousmarg Kashmir but has been returned by the Postal Department stating “refused”. Subsequently, the order

of the FAA passed on 24.06.2013 was reportedly given to him through Showkat Ahmad Mir, Orderly which as per records has been refused by the appellant. Thereafter the order of FAA has been sent to the information seeker through Registered Post on 12.07.2013 on the address given in the RTI application which has been returned back by the Postal Department stating “refused”.

FAA also produced relevant file noting whereunder concerned officials have remarked as under: -

“As per available records presently in the office only Type Test Papers of 2010 and 2011 which have already handed over to PIO”.

During hearing the appellant submitted that there are two Darwans in Yousmarg, however, this plea is not maintainable as information has been sent on the address given by him in the RTI application. However, keeping spirit of the RTI Act in view, the set of information is given to the information seeker during hearing. Also, on directions of the Commission a copy of relevant note sheet is given to information seeker.

The appeal filed by the appellant is devoid of any merit in view of the fact that information available as per records as certified by the FAA have already been provided to him through proper mode of service which has been returned as “refused”. Therefore, one set of information be handed over to him immediately after hearing.

The appeal is disposed of with above directions.

Announced in open court.

Sd/-
(Nazir Ahmed)
State Information Commissioner

Copy to the: -

1. Additional Commissioner, Commercial Tax (Adm), Excise and Taxation Complex, Solina, Srinagar.
2. Sh. Mohammad Ahsan Mir s/o Abdul Khaliq Mir r/o Darwan Yousmarg, Chararisharief Budgam.

(G.Q. Bhat)
R e g i s t r a r
J&K State Information Commission