



Jammu and Kashmir State Information Commission

جموں اینڈ کشمیر سٹیٹ انفارمیشن کمیشن

(Constituted under The Right to Information Act, 2009)

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www.jksic.nic.in

File No: SIC-J-comp-8th Oct-2011

Decision No. SIC-J-comp-8th Oct-2011/198

Sh. Naresh Gupta

..... Complainant

Sh. Kuldeep Kumar Gupta,

(the then Chief Education Officer/PIO, Kathua),

Chief Education Officer,
Reasi.

..... Public Information Officer

Jammu,

24-07-2012

ORDER U/s 17 of the J&K Right to Information Act, 2009 in the above titled case:

This is a complaint filed by Sh. Naresh Gupta S/o Lt. Sh. K.L. Gupta R/o 140 Paharian Street near Green Bhawan, Jammu before this Commission on 07-10-2011 against the then PIO/CEO, Kathua stating therein that the complainant had filed an RTI application U/s 6 of the State RTI Act, 2009 before the PIO/Chief Education Officer, Kathua on 24-08-2011 seeking following information:-

That the Hon'ble High Court in its order dated 03-05-2010 (copy enclosed) has restrained Govt. Teachers/Masters for undertaking coaching/tuition, also the govt. functionaries like Chief Education Officer etc, has been directed to implement the order in letter and spirit. But it seems that the Chief Education Officer is not interested to implement the order as directed by the Hon'ble High Court. The following are some of the teachers who are violating the orders of the Hon'ble High Court and Ban orders issued by Commissioner/Secretary, J&K Govt. School Education Department vide letter no. EDU/PS/C/S/11/05 dated 11/08/2005.

- a. Arun Pathak, Teacher posted at Kho-Mandli High School presently running tuition centre at his residence Jawahar Nagar, Krishna Colony, Kathua.
- b. Piyush Badwal, posted at HSS Barnoti, Kathua, running tuition centre at his residence near Minerva School.
- c. Mangat Ram posted teacher at DIET Doda running tuition centre at 1st Floor above Tata Indicom Office, Shaheedi Chowk, Kathua.
- d. Swarn Abrol posted High School Thani-Bakta, Kathua, presently running tuition centre at 1st Floor above Tata Indicom Office, Shaheedi Chowk, Kathua.
- e. Rakesh Sharma Teacher posted at Chandma HSS Kathua, presently working at his residence, Kathua.
- f. Sukhdev Singh Teacher Boys HSS Kathua working at his residence.
- g. Adarsh Pal, posted Phlote Middle School Kathua, running tuition Centres at Shaheedi Chowk, Kathua.
- h. Shashi Paul posted at Boys Hr. Sec. School Kathua, running tuition centre at Sher Singh Mandi, Kathua.
- i. Joginder Jasrotia posted at Khrote Middle School, running tuition centre at ward No. 4 Krishna Colony Kathua.

- j. Devinder Kumar posted at HSS Lachipur High School, running tutorial at his residence Krishna Colony, Kathua.

The PIO was under legal obligation to dispose of the RTI application U/s 7 of the State RTI Act, 2009 by or before 23-09-2011. The complaint was listed for hearing on 04-01-2012. The PIO attended the hearing. The PIO during hearing before this Commission on 04-01-2012 had assured the Commission to provide information to the information seeker as sought vide his RTI application on the same day under intimation to the Commission. Penalty proceedings U/s 17 of the J&K RTI Act, 2009 were initiated against the PIO (Chief Education Officer, Kathua) vide this Commission Order dated 04-01-2012 passed in above titled complaint and the PIO was provided reasonable opportunity to explain his position for not imposing penalty. He was required to submit his explanation, if any, within two weeks from the pronouncement of the order referred above.

The PIO has submitted his explanation vide letter no. CEO/Comp./2322 dated 28-04-2012 which was received in this Commission on 04-05-2012. The explanation given by PIO was not found to be reasonable. However, another opportunity was given to PIO to explain the reasons for delay vide notice dated 06-06-2012.

The PIO who is presently CEO, Reasi, has submitted his explanation vide letter no. CEO/RSI/Est/3715 dated 31-05-2012. After perusing the contents of the above said two explanations by virtue of which PIO has tried to defend himself and the record available on file, it shows that the PIO has utterly failed to explain the reasonable cause in providing the information within stipulated period

of time as per Act. The PIO has stated that the application filed by the information seeker was not accompanied by requisite fee, though the information seeker has mentioned the S.Nos. of stamp papers alleged to have been attached with his application but the Stamp papers were not found attached. The PIO has further stated that the application of the information seeker was rejected on this ground. The PIO has failed to produce documentary evidence in support of rejection of RTI application filed by the complainant. It was also not brought to the notice by the PIO during the hearing held on 04-01-2012, when PIO was himself present, rather he undertook to send the information to the information seeker on that very day that, too through speed post.

The information was not provided to the information seeker till the date Sh. Kuldeep Kumar Gupta was posted as CEO/PIO Kathua i.e. 24-03-2012.

As stated above, the information should have been provided to the information seeker on or before 23-09-2011. The delay caused in providing the information by respondent from 23-09-2011 to 24-03-2012 comes out to be 183 days. As such he is liable to be penalized U/s 17 of J&K RTI Act, 2009.

The penalty to be imposed on the PIO is calculated as under:-

- (i) Date of application U/s 6 of J&K RTI Act, 2009 for seeking information is **24-08-2011.**
- (ii) Due date of passing order by PIO under Section 7 is **23-09-2011.**
- (iii) Penalty to be imposed for each day is Rs. **250/-.**

183 days X Rs. 250 (per day) = Rs. 45,750/-

The total amount of such penalty shall not exceed Rs. **25,000/-** U/s 17 clause (1) under J&K RTI Act, 2009. Therefore an amount of **Rs. 25,000/-** is worked out and imposed as penalty.

The Drawing and Disbursing Officer (DDO) in the office of Chief Education Officer, Reasi will ensure deduction of **Rs. 25,000/-** from the salary of Shri Kuldeep Kumar Gupta the then PIO/Chief Education Officer, Kathua at present Chief Education Officer, Reasi in 3 equal installments as provided in Rule 36 (3) of J&K State RTI Rules, 2010 and remit it to the Government Account with an intimation to this Commission. In case of any default committed by the DDO in this regard, he (DDO) will be personally liable for making the payment towards the Government account. This order has to be complied within fifteen days from the date of receipt of the order.

Shri Kuldeep Kumar Gupta, Chief Education Officer, Reasi is at liberty to file a Review Petition before this Commission for review of this order as provided under Rule 36 Clause (4) of J&K RTI Rules, 2010.

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(Dr. S.K. Sharma)
State Information Commissioner

