



Jammu and Kashmir State Information Commission

جموں اینڈ کشمیر سٹیٹ انفارمیشن کمیشن

(Constituted under The Right to Information Act, 2009)

Wazarat Road Near D.C. Office, Jammu, Fax No. 0191-2520927-947

Old Assembly Complex, Srinagar. Fax No. 0194-2484267

www.jksic.nic.in

File No. SIC/J/Com/12.Nov.2011

Decision No. SIC/J/Com/12.Nov.2011/210

Shri Dineshwar Singh Jamwal ... Complainant

V/s

Public Information Officer
(Executive Engineer
PHE (Mech), Procurement Div.
Narwal, Jammu

Jammu
30.07.2012

This is a complaint filed by Shri Dineshwar Singh Jamwal, President Universal Foundation, R/O 308/11 Shakti Nagar, Jammu before this commission on 11.11.2011 against the PIO in the office of the Chief Engineer, PHE, Jammu.

The grounds of the complaint are that the complainant had filed an RTI application before the Chief Engineer, PHE on 10.10.2011 for seeking following information:

- i. *Whether the technical approval is required for approving a product/Technology for using it for a particular application. If so, please provide us the information regarding the merits for approving a Product/Technology.*

- ii. *Provide us the information whether any product/technology has been approved earlier for composite Pressure Pipes before 31st March 2011.*
- iii. *If so, please provide us the information of the Tenders & supply orders allotted earlier for the products/technology by your office or subordinate offices and copies of the supply order(s) with terms and conditions, besides other relevant details.*
- iv. *Provide us the following information regarding the tender(s) of (PE-AL-PE) Composite Pressure Pipes (IS 15450) floated by your office or subordinate offices during the current financial year (between 1st April 2011 and 10th October 2011).*
 - (a) *Copy of the Technical Note/Report for approving the Product/Technology for approval & using the same for a particular application.*
 - (b) *Copy of the Indent from Indenting Agency.*
 - (c) *Copy of Complete documentation for preparing the Tenders Documents of (PE-AL-PE) Composite Pipes.*
 - (d) *Tendering process & NIT publication (Photocopies of the News Papers in which the NITs were published), duly authenticated.*
 - (e) *Number of the participants and their particulars.*
 - (f) *Comparative statements of the Rates of participants/tenderers.*
 - (g) *Tender opening (Dates and their finalization mode (in whose presence was these tenders opened and finalized).*
 - (h) *Copies of supply order(s) with terms and conditions, besides other relevant details if any.*

As the complainant did not receive any information from the PIO on his RTI application, a complaint was filed before this commission on 11.11.2011. The Registry of the commission issued 7 days notice vide No: SIC-J-Com/12.Nov.2011/2011-356-57 dated 24.01.2012 to PIO PHE Department Jammu seeking his reply/counter statement to the complaint. The complaint was fixed for hearing on 1st Feb. 2012.

During the hearing on 01-02-2012 the PIO furnished a set of information to the information seeker. The complaint was adjourned as the information seeker sought 10 days time for going through the contents of the information provided to him. Again the case was listed on 17.2.2012. The PIO/TO Chief Engineer, PHE and the representative of the complainant attended. The PIO/TO to Chief Engineer, PHE Jammu brought to the notice of the commission that the RTI application was transferred to the concerned PIO who was identified Shri Rajeev Gupta, Executive Engineer PHE (Mech). Procurement Div. Jammu with the request to provide the information to the

information seeker directly. In the interim order of the commission the PIO was directed to provide requisite information to the information seeker by 25th of Feb. 2012. The Registry of the commission issued notice to Shri V. K. Bhagat, PIO /TO to Chief Engineer, PHE Jammu and Shri Rajeev Gupta, PIO/Executive Engineer, PHE (Mech), Procurement Div. Jammu on 18.05.2012 with the directions to appear before the commission on 28.05.2012 alongwith counter statement. Both the PIOs and the complainant attended the hearing and were heard. During the hearing it was brought to the notice of the commission that the RTI application was forwarded to PIO/Executive Engineer, PHE (Mech), Jammu. It has been seen from the record that despite repeated reminders the PIO did not respond to the request of the information seeker. Part of information comprising of 37 pages was provided to the information seeker during the course of the hearing. The information seeker complained that the information provided was incomplete, incorrect and misleading and not as per the RTI application. However, it was contested by the PIO that whatever information was available with him, it has been provided to the information seeker. Keeping in view the inordinate delay in providing the information penalty proceedings were initiated against both the PIOs and they were directed to submit their replies, if any, within two weeks from the date of pronouncement of the order on 28.05.2012.

Shri V. K. Bhagat, PIO/TO to Chief Engineer, PHE, Jammu replied to the show cause notice issued vide Order No. SIC/J/Com/12.Nov.2011/118 dated 28.05.2012 vide his letter dated 31.05.2012 explaining that the RTI application was received by him on 10.10.2011 and was transferred to the Executive Engineer, PHE (Mech), Jammu on 11.10.2011. Shri Rajeev Gupta, PIO/Executive Engineer, PHE (Mech), Procurement Div. Jammu also submitted his explanation vide letter dated 15.06.2012 stating therein that the information was to be collected from various offices and it took some time to scrutinize the documents and was provided to the complainant on 30.1.2012. The PIO has himself admitted that there is a delay in providing

the information to the information seeker but it was not intentional and deliberate.

The commission has considered the explanation of the PIO and on its perusal it has been found that the reply given by the PIO is not in accordance with the spirit of State RTI Act 2009. The purpose of the Legislature in enacting the State RTI Act 2009 is to bring transparency and accountability in the system. The PIO was duty bound to dispose of the RTI application within maximum period of 30 days from the receipt of the same. The PIO has failed to discharge his legal duties cast on him under the Act and has attracted the provisions of Section 17 of the Act. There is a delay of 106 days in providing the information by the PIO.

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

1. Date of RTI application	-	10.10.2011
2. Date of transfer of RTI application	-	11.10.2011
3. Date of receipt of RTI application by By PIO/Executive Engineer, PHE (Mech) Procurement Div. Jammu.	-	16.10.2011
4. Date of disposing the RTI application	-	30.01.2012
5. Delay in disposing of the RTI application	-	<u>106</u>
6. Penalty to be imposed for each day is Rs. 250/-.		

(106 X 250 = Rs. 26,500/-)

Under Section 17 (1) the total amount of such penalty shall not exceed Rs. 25,000/-. Therefore, an amount of Rs. 25,000/- is imposed as penalty.

The Drawing and Disbursing Officer (DDO) in the office of the Executive Engineer, PHE (Mech), Procurement Div., Jammu will ensure deduction of Rs. 25,000/- from the salary of Shri Rajeev Gupta, PIO/ Executive Engineer, PHE (Mech), Procurement Div., Jammu in 3 equal

installments as provided in Rule 36 (3) of the State RTI Rules 2010 and remit it to the Government account under 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 with within fifteen days from the date of receipt of the order.

Shri Rajeev Gupta, PIO/Executive Engineer, PHE (Mech), Narwal, Jammu is at liberty to file a Review Petition before this commission for review of this order as provided under Rule 36 Clause (4) of the J&K State RTI Rules, 2010.

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

Copy to :-

1. Drawing & Disbursing officer , O/O (Executive Engineer PHE (Mech) Procurement Div. Narwal, Jammu
2. Sh. Rajeev Gupta , Public Information Officer / (Executive Engineer PHE (Mech) Procurement Div. Narwal, Jammu
3. Shri Dineshwar Singh Jamwal , Complainant.
4. Guard File.

(**Khalid A. Shah**)
Assistant Registrar,
J&K State Information Commission

NB: (In any correspondence on this decision, please mention the complete decision number)

