



Jammu and Kashmir State Information Commission

جموں اینڈ کشمیر سٹیٹ انفارمیشن کمیشن

(Constituted under The Right to Information Act, 2009)

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Old Assembly Complex, Srinagar. Fax No. 0194-2484268, 2484269

www.jksic.nic.in

File No: SIC-J/A/97/2012

Decision No. SIC-J/A/97/2012/265

Sh. Madan Mohan

..... Complainant

Sh. Rajesh Thakur,
General Manager,
J&K, SICOP,
Rail Head Complex,
Udhyog Bhawan,
Jammu.

..... Public Information Officer

Sh. Anoop Anand,
The then PIO,
J&K, SICOP,
Rail Head Complex,
Udhyog Bhawan,
Jammu.

..... Public Information Officer

**Jammu,
01-09-2012**

Sh. Madan Mohan R/o Vichar Kranti Manch International, 208/5
Channi Himmat, Jammu filed a complaint before this commission

against the PIO, J&K SICOP Jammu complaining therein that he had filed an RTI application before PIO, J&K SICOP Jammu on 16-07-2011 seeking following information:-

- a. *Provide a list of appointments made in the corporation during last three years with names of people appointed with their residential addresses, mode of appointments made, names of the post, whether advertised as per rule, name and designation of the appointing officer, name and designation of the authority who gave sanction to make appointments, whether the vacancies existed as approved by board of directors.*
- b. *SICOP is providing marketing support to SSI units. It is understood SICOP is marketing products of SSI units to only govt. departments, corporations, undertakings. How many orders were executed for private market (consumers, manufacturers, retailers) during last five years. Provide list of such orders executed with names of customers, bill number, items, and value.*
- c. *What is the mode of ascertaining reasonability of rates at which the corporation makes purchases from SSI units and how does the corporation ascertain that the prices at which the SSI products are purchased are the lowest rates as compared to similar quality products of other manufacturers in the country, of course price preference is to be given to SSI units.*

As the information seeker did not get information sought by him within the statutory period as specified in the State RTI Act, the information seeker filed an appeal on 06-11-2011 before the 1st Appellate Authority i.e. Managing Director, J&K SICOP. The FAA was duty bound as per Act to pass an order on the appeal within 30 days, extendable to 45 days quoting the reason for such extension. The Commission is constrained to observe and view seriously the failure

of the Managing Director/ FAA, who is a senior functionary of the organization, for not discharging his quasi-judicial duties cast on him by the J&K RTI Act, 2009.

The complainant filed a complaint before this Commission on 13-02-2012. The Registry of the commission issued 7 days notice to the PIO, J&K SICOP on 14-03-2012 to file his reply/counter statement on the complaint. The PIO failed to file reply/counter statement in response to Commission's notice. On 04-05-2012 a notice was issued to PIO for causing his presence before this Commission on 17-05-2012 at 10.00 A.M.

Shri Rajesh Thakur, General Manager/PIO, J&K SICOP attended the hearing. The PIO informed this Commission that he assumed charge as PIO on 12-03-2012 and identified the then PIO as Shri Anoop Anand, General Manager, J&K SICOP. This Commission vide its order no. SIC-J-C-39-12 dated 17-05-2012 directed the PIO to provide information to the information seeker within 2 weeks from the pronouncement of the order and the then PIO Sh. Anoop Anand was directed to explain why penalty U/s 17 of State RTI Act, 2009 may not be imposed for not providing the information sought by the information seeker during the period he was PIO i.e. from the date of filing the RTI application till he was the PIO. A show cause notice was issued for filing reply to the then PIO Mr. Anoop Anand on 18-07-2012 but this Commission has not received any reply to the show cause notice. On 09-08-2012 another notice was sent to Sh. Anoop Anand to afford last and final chance to show cause as to why

penalty may not be imposed on him. But again the officer opted not to respond whereby it is safely construed that he had no reasonable ground for the delay.

The present PIO, Sh. Rajesh Thakur, General Manager, J&K SICOP has filed his reply to the show cause notice which was received in the commission on 11-06-2011 intimating the commission that the information has been provided on para 'B' and para 'C' of RTI application and the rest of information on para 'A' is under process and will be provided in due course of time. This "*due course of time*" phrase after the order of the Commission to show cause of delay in order dated 17-05-2012 is imperative of lack of seriousness on the part of present PIO.

This Commission has considered the reply submitted by PIO Rajesh Thakur, General Manager, Administration, J&K SICOP filed before this Commission in response to the decision passed by this Commission on 17.05.2012. The PIO has provided information to the complainant on para 'B' and para 'C' of the RTI application on 07-06-2012 and with regard to para 'A' present PIO has submitted that as and when the rest of information is received the same will be forwarded in due course of time.

The commission has considered the reply given by the present PIO Shri Rajesh Thakur. The PIO has failed to give any reasonable cause for delay in providing the information which is against the spirit of the State RTI Act 2009. The delay in providing information to the information seeker by the present PIO comes to 66 days which

amounts Rs. 16,500/-. Further the present PIO has not complied with the order of the commission in providing information in full within two weeks from the pronouncement of the order which he had agreed to during the hearing on 17.05.2012. There is a delay of 164 days by the then PIO, J&K SICOP Sh. Anoop Anand i.e. Rs. 41,000/-. 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 on Shri Anoop Anand, the then PIO, SICOP.

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

1. Sh. Anoop Anand the then PIO, J&K SICOP.

- a. Date of application U/s 6 of J&K RTI Act, 2009 for seeking information is **16-07-2011.**
- b. Due date of passing order by PIO under Section 7 is **15-08-2011.**
- c. No. of days in default w.e.f. **16-07-2011 to 11-03-2012 = 164 days**
- d. Penalty to be imposed for each day is Rs. **250/-.**

165 days X Rs. 250 (per day) = Rs. 41,000/-

2. Sh. Rajesh Thakur, present PIO, J&K SICOP.

- a. Date of application U/s 6 of J&K RTI Act, 2009 for seeking information is **16-07-2011.**

- b. He took over the charge as General Manager/PIO, SICOP on **02-4-2012.**
- c. Till date he was not providing information to the information seeker.
- d. No. of days in default w.e.f. **02-04-2012 to 07-06-2012 = 66 days.**
- e. Penalty to be imposed for each day is Rs. **250/-.**

66 days X Rs. 250 (per day) = Rs. 16,500/-

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/- & Rs. 16,500/-** is worked out and imposed as penalty on both the PIOs.

The Drawing and Disbursing Officer (DDO) in the office of J&K SICOP, Rail Head Complex, Udyog Bhawan, Jammu and SICOP, Head Office Boulevard Road, Srinagar will ensure deduction of **Rs. 25,000/- & Rs. 16,500/-** from the salary of Shri Anoop Anand, the then PIO/General Manager, J&K SICOP and Sh. Rajesh Thakur at present PIO/General Manager (Admn), SICOP 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 payments toward the Government account. This order has to be complied with within **fifteen** days from the date of receipt of the order.

Shri Anoop Anand, the then PIO/General Manager, J&K SICOP and Sh. Rajesh Thakur at present PIO/General Manager, J&K SICOP,

Head Office Boulevard Road, Srinagar Rail Head Complex, Udhyog Bhawan, 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 J&K RTI Rules, 2010.

Sd/-
(Dr. S.K. Sharma)
State Information Commissioner

Copy to:

1. First Appellate Authority / Managing Director, SICOP (M), Rail Head Complex, Udhyog Bhawan, Jammu.
2. Public Information Officer / Sh. Rajesh Thakur, General Manager, J&K, SICOP, Rail Head Complex, Udhyog Bhawan, Jammu.
3. Sh. Anoop Anand, The then PIO, J&K, SICOP, Jammu at present SICOP, Head Office Boulevard Road, Srinagar.
4. Sh. Madan Mohan R/o Vichar Kranti Manch International, 208/5 Channi Himmat, Jammu.
5. 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