



**Jammu and Kashmir State Information Commission**  
(Constituted under Right to Information Act 2009)  
Old Assembly Complex, Srinagar, Fax No. 0194-2484269, 2484262  
Wazarat Road Near DC Office, Jammu, Fax No. 0191-2520947, 2520937  
www.jksic.nic.in  
\*\*\*\*\*

File No: SIC/J/A/63/2013  
Decision SIC/J/A/63/2013/119

Sh. Kovid Khosla  
Advocate

Appellant Present

Sh. Rajinder Gupta  
Executive Engineer,  
P.H.E Division, Nowshera  
District Rajouri.

PIO

(Heard through Video Conferencing)

**Jammu**  
**13-05-2013**

Briefly the facts in this appeal are that Sh. Kovid Khosla, Advocate, J&K High Court R/o Opposite Eicher Showroom, Main Road Sidhra, Jammu moved an application dated 18-12-2012 under J&K RTI Act, 2009 before the PIO O/o P.H.E. Division, Nowshera seeking the following information:-

- a. *Total amount / funds received from the J&K State Govt. in year 2010, 2011, 2012 for execution of different (PHE) development schemes and programmes including (LIC, MNP,NAB,S.S and others) in entire Nowshera district with full details of the estimated cost of such programmes.*
- b. *Total funds received in year 2010, 2011, 2012 for execution of the central govt. schemes under NRDWP coverage and NRDWP SLLIPAGE in entire Nowshera district with full details of the estimated cost of such programmes with dates of completion of such programmes and present status.*
- c. *Details of the items purchased in year 2010, 2011, 2012 for utilization / application in such schemes alongwith their actual cost and dates of purchase, brand and name of company / firm / individual from whom such items have been purchased.*

- d. Whether tenders for such purchases were done, if yes, name of the company/firm/individual who made bids and in whose favour tenders were passed with date of tenders.*
- e. Details of bids made in such tenders alongwith the details of the approved bids for last three years.*
- f. Details of items utilized / distributed / installed alongwith the date and areas of their installation / distribution / utilization under such schemes.*
- g. Details of the balance / lapsed amount from the aforesaid state and centre government schemes for year 2010, 2011 & 2012.*
- h. Full details of the entire staff of PHE division, Nowshera with details of their residential addresses / designation / posts held / period of stay at such division / dates of joining said divisions.*

The PIO was heard through video conferencing and during the course of proceedings, he apprised the Commission that the information seeker was requested vide office letter no. PHE/NSP/2174-76 dated 22-01-2013 to deposit an amount of Rs. 1,000/- as cost of the information in the account of Executive Engineer, PHE Division, Nowshera by way of cash or demand draft or bankers cheque U/s (1) of Section 7 for further process into the matter.

At the very outset the demand raised by the PIO / Executive Engineer is contrary to the provisions of J&K RTI Act, 2009 as such it has to be raised within 30 days from the receipt of the RTI application. Whereas the PIO has raised this demand after the expiry of 30 days which is illegal and contrary to the provisions of the J&K RTI Act, 2009.

Thus feeling aggrieved of inaction on the part of PIO, the information seeker preferred appeal dated 02-02-2013 before the 1<sup>st</sup> Appellate Authority / Superintending Engineer, Hydraulic Circle PHE, Rajouri. The information seeker has alleged that the 1<sup>st</sup> appeal is sub-judice before the FAA and has not been adjudicated and disposed of within the statutory period. In view of that the information seeker had no option except to knock the doors of the Commission by way of 2<sup>nd</sup> appeal. After receiving the appeal, the matter was listed for hearing through video conferencing on 13-05-2013, Sh. Kovid Khosla (Advocate) appeared in person before the Commission. The PIO took the plea that the application of the information seeker was put up before him by his office staff only on 09-01-2013 and he acted expeditiously in the matter. Whereas the perusal of the facts and record shows that there is a lapse on the part of the office of PIO /

Executive Engineer, PHE Division, Nowshera in disposing of the application of the information seeker within a statutory period.

During the course of proceedings, the PIO was unable to explain the delay for raising the demand for payment of cost of information. In view of these facts and circumstances, the PIO is hereby directed to furnish the information to the information seeker free of cost within one week from the date of pronouncement of this order. The PIO also assured the Commission that the information is ready in his office and will be dispatched to the information seeker today itself without further delay in the matter.

It would be appropriate to comment upon the functioning of the 1<sup>st</sup> Appellate Authority as is evident from the facts and circumstances of this case that the matter is sub-judice and till date has not been adjudicated and disposed of. The FAA being a quasi judicial authority is under a statutory obligation to adjudicate the RTI matters on merit after affording an opportunity of being heard to the information seeker. Whereas in this case no such step has been taken by the FAA which shows flagrant violation of provisions of the J&K RTI Act, 2009 and infringement of an important fundamental right of the information seeker. The 1<sup>st</sup> Appellate Authority is hereby directed to remain careful and vigilant in future while performing its role as a quasi judicial authority.

The appeal is accordingly disposed of.

Notice of this decision be given free of cost to the parties.

**Sd/-**

Dr. S.K. Sharma  
State Information Commissioner

Copy to the:

5. First Appellate Authority/ Superintending Engineer, Hydraulic Circle, PHE, Rajouri.
6. Public Information Officer / Sh. Rajinder Gupta Executive Engineer, PHE Division Nowshera District Rajouri.
7. Sh. Kovid Khosla, Advocate, J&K High Court R/o Opposite Eicher Showroom, Main Road Sidhra, Jammu.
8. Guard File.

Jang Bhadur  
Joint Registrar  
State Information Commission