



Jammu and Kashmir State Information Commission
(Constituted under Right to Information Act 2009)
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File No: SIC-J-A-79/2013
Decision No: SIC-J-A/79/2013/132

Sh. Deepak Sharma	Appellant	Present
Dr. Ravi Shankar Sharma Addl. Dy. Commissioner, Jammu.	PIO	Present

Jammu
20-05-2013

Briefly the facts in this appeal are that Sh. Deepak Sharma R/o Mandalik Bhawan, 412-C, Jeevan Nagar, Jammu moved an application dated 16-11-2012 under J&K Right to Information Act, 2009 before the PIO O/o Deputy Commissioner, Jammu seeking the following information :-

- I) *Kindly mention how many firecrackers burst took place after 10 P.M of 13-11-2012 and before 6 A.M of 14-11-2012 in the Jammu District.*
- II) *From 1st January 2012 till 13th November 2012, kindly mention the number and date of notifications/advisory etc. issued by the district administration to general public for the awareness of Hon'ble Supreme Court's order on firecrackers, the number and date of any order passed by the District administration to restrict people from bursting crackers in between 10 p.m to 6 a.m and the number and date of any order passed by the District administration to any of its department to take steps for the compliance of the Hon'ble Supreme Court's order on firecrackers. (Kindly provide a certified copy of the said notification/order etc.).*

- III) *According to the Hon'ble Supreme court's order on firecrackers, the permissible decibel level for firecrackers is 125 decibel and for a series of crackers it is 105 decibel. Kindly mention, was the said order of the Apex Court was complied in the District of Jammu on 13-11-2012 & 14-11-2012.*
- IV) *According to the Hon'ble Supreme Court's order on firecrackers, the chemical composition of the firecracker must be displayed on the packing of the firecracker. Kindly mention was the said order of the apex court was complied in Jammu district on 13-11-2012 and 14-11-2012.*
- V) *Kindly mention the name of the Government Agencies who are responsible for the implementation of the Hon'ble Supreme Court's order on firecrackers in Jammu district.*
- VI) *Kindly mention what action under rules would be taken by the District administration against the responsible officials of the concerned agencies, for non compliance and for non implementation of the Hon'ble Supreme Court's order on firecrackers.*

Because of inaction on the part of the PIO, the information seeker also approached the FAA by way of appeal which was received in its office on 11-02-2013. The Ist Appellate Authority did not adjudicate and dispose of the matter within statutory period. Thus, feeling aggrieved of inaction on the part of the PIO/FAA, the information seeker knocked the doors of Commission by filing second appeal dated 12-04-2013. The Commission after receiving the appeal, vide its notice NO:SIC/J/A/79/2013/1947 dated 30-04-2013 directed the PIO to send counter reply to the Commission within 7 days of receipt of notice and finally the matter was listed for hearing on 20-05-2013 at Jammu office. During the course of proceedings, PIO was asked to explain delay/inaction on his part in furnishing the information to the information seeker within statutory period. Dr. R.S Sharma, PIO categorically denied the receipt of RTI application of the applicant in his office. He informed the Commission, that he came to know about RTI application of the applicant only after receipt of Commission's notice for today's hearing. He further informed the Commission that sincere efforts were made by his office staff to search the application of the information seeker and it was reported that no such application has been received in his

office. The PIO further assured the Commission that he will furnish the information to the information seeker within 10 days. Thus keeping in view the aforesaid facts, PIO is hereby directed to furnish the requisite information to the information seeker as sought by him in his RTI application and as available in office record within 10 days from the date of pronouncement of this order under an intimation to the Commission.

It would be appropriate to comment in these proceedings on the role of the First Appellate Authority. FAA being a quasi-judicial authority is under a legal obligation to adjudicate and dispose of appeals filed before it within the statutory period as envisaged in the RTI Act. Failure on the part of the FAA to perform its duty amounts to flagrant violation of an important fundamental right of the citizen. Facts in this case reveal that the first appeal was duly received by the office of Deputy Commissioner, Jammu on 11-02-2013 which is subjudice till date and has not been disposed of. Through the medium of this order, the FAA is reminded of its duty under the Act and also enjoined upon to treat this direction as a "wakening call" for disposal of cases pending before it under the RTI Act. Registry is directed to endorse a copy of this order for the information of First Appellate 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