



State Information Commission

(Constituted under Right to Information Act 2009)

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File No: SIC/J/A/133/ 2013
Decision No: SIC/J/A/133/ 2013/229

Sh. Kovid Khosla
Advocate J&K High Court

Appellant

Present

Sh. Ashwani Kumar Anand
Executive Engineer
PHE Division,
Udhampur.

PIO

Present

Sh. Kishore Kumar Gupta
Technical Officer,

Present

PHE Division,
Udhampur.

**Jammu.
05-08-2013**

Briefly the facts in this appeal are that Sh. Kovid Khosla, Advocate, J&K High Court Jammu, Opposite Eicher Showroom, Main Road, Sidhra, Jammu moved an application dated 07-01-2013 under the J&K RTI Act, 2009 before the PIO/Executive Engineer, PHE Division, Udhampur seeking the following information:-

- A. Total amount received by the Ex-Engineer (EM&RE Div-3) AEE Stores (EM&RE Div-3) or other concerned officials of EM&RE Div-3 Jammu in year 2010, 2011, 2012 for making purchases of different items under different heads.
- B. Names and designations of officials of (EM&RE Div-3) to whom such amounts have been sanctioned for making such purchases with description of amounts sanctioned.
- C. Details of the items (including quantity/quality/brand/date of purchase) purchased by abovesaid officials in year 2010,2011, 2012 alongwith their actual cost of purchase 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 dates and areas of their installation/distribution/utilization*
- G. Details of items purchased from ECSD Jammu, SICOP Jammu/SuperBazar Workshop Division Jammu and local market in the years 2010,2011, 2012 till date with details of their rate /brand/qualityquantity*
- H. List of the removed or damaged items lying in the aforesaid stores at present*
- I. Name of the development works done by PHE department under M.L.A (C.D.F) Udhampur in year 2010,2011, 2012 till date with full details of works done/estimated costs of such works/amounts received for carrying out such works /order and date/physical status with details of the executing agency or contractor and name of the block in which such work was done.*
- J. Whether tenders for such works were done if yes then details of the tender quotations with details of approved bids and name of the contractors or agency who carried out the work and time period within which such works were executed*
- K. Yearly losses in rupees in the said division for non recovery of water supply dues.*
- L. Total amount in rupees yet to be recovered as rent in entire PHE division Udhampur from consumers for consumption of water supplied by department and steps taken by department for such recovery.*

The PIO submitted during the course of proceedings that the information was sent to the information seeker vide office No:5670-71 dated 31-01-2013 and produced the dispatch register in support of his contention. However, he submitted before the Commission that his office has not preserved/kept any postal receipt in this regard and he is unable to produce the same. The information seeker submitted before the Commission that he received the information only after filing second appeal before the Commission which was sent to him under a registered cover. Perusal of documents available on record show that though the information was sent to the information seeker and has been received by him also but

the same is incomplete and not as per his RTI application. During the course of proceedings held today, the PIO agreed to provide the revised information to the information seeker within 15 days. It would be pertinent to comment on the role of the PIO in this regard that though the information as per dispatch register stands furnished to the information seeker but absence of any postal receipt in support of the same raises many doubts/question marks about the action of the PIO in providing the information within statutory period. The Commission takes a serious note of such laxity on the part of the PIO and warns him to remain careful in future and act with circumspection while discharging his duty under the RTI Act.

It would also be essential in this case to comment upon the role of the FAA which is a quasi-judicial authority before whom the Ist appeal is subjudice and has not been adjudicated and disposed of till date. The FAA is reminded of its statutory obligation under the Act, and should pass speaking orders on merit after hearing both the parties. An indolence on the part of a Quasi-judicial authority is fatal to the regime of transparency and accountability as envisaged in the Act. The Registry of the Commission is directed to send a warning note to the FAA (Superintendent Engineer), PHE Division, Udhampur to remain careful in future while dealing with RTI appeals. In view of the aforesaid observations, PIO is hereby ordered to provide complete, correct and revised information as sought by the information seeker in his RTI application within 15 days from the date of receipt of this order under an intimation to the Commission.

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 :

1. First Appellate Authority / Superintending Engineer, PHE-Division, Udhampur.
2. Public Information Officer / Executive Engineer, PHE-Division, Udhampur.
3. Sh. Kovid Khosla, Advocate, J&K High Court Jammu, Opposite Eicher Showroom, Main Road, Sidhra, Jammu.

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