



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-C-93/2012
Decision No: SIC-J-C-93/2012/384

Sh. Raman Sharma

Complainant

Sh. V.K. Bhagat
Technical Officer,
O/o Chief Engineer,
P.H.E. Deptt;
Jammu.

PIO

Jammu
13-12-2013

Brief facts of the case are that one Sh. Raman Sharma filed an application U/s 6 of J&K RTI Act, 2009 before PIO office of Chief Engineer Public Health Engineering Department, B.C. Road Jammu on 17-11-2011. In response to said RTI application of the information seeker no information was provided by the PIO. The information seeker filed a complaint U/s 15 of the J&K RTI Act, 2009 before the Commission on 26-03-2012. The complaint was heard on 24-07-2012 and during the course of proceedings, PIO informed the Commission that the information sought by the information seeker in his RTI application was provided to him vide office letter no. PHEJ/PS/6898 dated 23-07-2012. The PIO was directed to show cause as to why penalty U/s 17 of the Act shall not be imposed on him. In reply to the said show cause notice the PIO tendered his explanation vide his letter no. PHEJ/PS/7816 dated 13-08-

2012. The PIO in his explanation admitted that there was delay in furnishing the information to the information seeker. He stated that the delay was caused due to the fact that RTI application alongwith entire correspondence got misplaced by the concerned clerk and the same was not traceable till the filing of said explanation. He has further stated that the delay, if any, in providing the said information is neither intentional nor deliberate. This Commission vide its order dated 21-09-2012 directed the PIO to lead evidence as to the facts stated by him in his explanation. In compliance to the said direction the PIO submitted his reply vide his letter no. PHEJ/PS/11810 dated 30-10-2012 which was received in the Commission on 05-11-2012. But the PIO instead of leading the evidence in support of the facts stated in his explanation dated 13-08-2012 has reiterated his earlier reply and has failed to substantiate the grounds taken by him in his explanation. Second proviso to Sec 17(1) clearly provides that the burden of proving that the PIO acted reasonably and diligently shall be on the Public Information Officer. In the instant case the PIO has utterly failed to lead any evidence, despite of the fact that ample opportunity was given to him to do so, in support of his assertions that the RTI application along with entire correspondence was misplaced. Thus it is proved beyond reasonable doubt that there is a gross negligence on the part of the PIO while discharging his duties U/s 7 of the J&K RTI Act, 2009.

In view of the observations made above the Commission is of the view that the delay caused by the PIO in furnishing the information to the information seeker is unreasonable and without any sufficient cause and as such he deserves to be penalized U/s 17 of the J&K RTI Act, 2009.

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

- (i) Date of application U/s 6 of the J&K RTI Act, 2009 for seeking information is 17-11-2011
- (ii) Due date of passing order by PIO U/s 7 is 16-12-2011.

- (iii) Information provided to the information seeker on 23-07-2012.
- (iv) Delay in furnishing the information (Number of days)= 215 days.
- (v) Penalty to be imposed for each day is Rs. 250/-
- 215 days X Rs. 250 (per day) = Rs. 53,750/-**

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.

The Drawing and Disbursing Officer (DDO) in the office of Chief Engineer, P.H.E, Jammu will ensure deduction of **Rs. 25,000/-** from the salary of Sh. V.K. Bhagat the then PIO/Technical Officer to Chief Engineer P.H.E, Jammu at present Executive Engineer, P.D.C. Office, Trikuta Nagar, Jammu in five equal installments 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 payment towards the Government account. The order has to be complied within 15 (Fifteen) days from the date of receipt of the order.

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

Copy to the:-

1. 1st Appellate Authority/Superintending Engineer, Public Health Engineering, Jammu.
2. Public Information Officer / Sh. V.K. Bhagat the then PIO/Technical Officer to Chief Engineer P.H.E, Jammu at present Executive Engineer, P.D.C. Office, Trikuta Nagar, Jammu.
3. Sh. Raman Sharma R/o K-236 Mast Garh, Jammu.

(Khalid. A. Shah)
Dy. Registrar
State Information Commission