



Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

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File No: SIC/CO/SA/84/2013

Decision No: SIC/CO/SA/84/2013/576

Title:- Dheeraj Sharma

V/s

PIO Horticulture (P&M)

Jammu

Jammu

31.01.2014

This is a second appeal filed by Shri Dheeraj Sharma, a resident of the State before this Commission on 13.11.2013. Proceedings were attended to by S/Shri J.P.Sharma, Deputy Director-cum-FAA Horticulture (P&M) Jammu and Shri Digvijay Gupta, AMO-cum-PIIO, Horticulture (P&M) Jammu. Appellant did not attend. The brief facts of the case are that appellant is claiming to have sent RTI application for seeking information to the Commr/ Secretary to Govt. Horticulture Department, Civil Secretariat, Jammu. Reportedly, this information was received in the office of Commr/Secretary after the 24th of July the date of sending the RTI application by post. As the information was not with Commr/Secretary's office

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and was possessed by PIO in the Directorate of Horticulture (P&M), therefore, the PIO forwarded this RTI application to Deputy Director Horticulture vide No: DHPM/101.2013/2504-5 dated: 3.8.2013. The Deputy Director in turn forwarded the application to the concerned PIO vide his No: DDAJ/2013-14/631 dated: 5.8.2013. The PIO vide his order No: AMOJ/2013/286 dated: 19.8.2013 made a request to the information seeker for depositing the copying amount @Rs.10/- per copy. This communication is admitted to have been received by the appellant vide his appeal received in this Commission on 13.11.2013. Thus, the PIO has acted very fast and sent the intimation for payment of copying charges within the time limit of 30 days. It has been done inspite of the fact that the appellant had wrongly addressed this RTI application to the Commr/Secretary, Horticulture Department who is not the PIO. It is seen from the records that the appellant has preferred first appeal before FAA on 6.9.2013 which was again sent through post in the office of Commr/Secretary Horticulture Department. The appellant was well aware by the receipt of communication of PIO under No: DDHJ/2013/651/52 dated: 19.8.2013 which he himself acknowledged to have received that the PIO and FAA in this case was in the Directorate of Horticulture (P&M) and not in the office of Commr/Secretary Horticulture. He had requested the FAA to direct PIO for disclosure of the information free of cost. Because of his insistence to address RTI application and first appeal to the authorities who were not so designated, the first appeal got ignored and consequently it was not forwarded to the concerned FAA. The FAA in Commr/Secretary's office was under legal obligation to forward this appeal to the concerned authority in the Directorate of

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Horticulture. Again not receiving any decision on first appeal, the appellant has approached this Commission with second appeal.

2. The only plea in the second appeal is that the copying charges rate of Rs.10 is higher because the rate was reduced in the rules of 2012. The Commission further finds that the PIO has informed the information seeker for depositing of copying charges within time prescribed in the Act. However, only infirmity is that instead of seeking copying charges at Rs.2/- the PIO has inadvertently demanded charges at Rs.10/- per copy. The appellant immediately after receipt of requisition dated: 19.8.2013 should have written to the PIO that there has been a mistake of fixing the rate at Rs.10/- rather than Rs.2/- as per the rules which were in operation at the time of filing first appeal. The Commission considers such inadvertance as a mistake which will not vitiate the order of PIO for seeking the copying charges as per rules. It is further revealed that the PIO after realizing that a mistake had crept in his earlier order had informed the appellant vide his No: AMOJ/2013-14/478 dated: 7.12.2013 to deposit the copying charges @Rs.2/- per copy. But the appellant did not avail this. The Commission has, therefore, upheld the contention of the PIO. The Commission has found that the appellant has been regularly pursuing the RTI Act and he is thus reasonably acquainted with the provisions of law. Had his intentions been only to receive information, he would have paid the copying charges @Rs.2/- and obtained the information. The Commission under these facts and circumstances of the case directs the PIO to provide the information only if the information seeker deposits copying charges @Rs.2/- per copy within 10 days from the receipt of this order.

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3. The appellant is accordingly advised to make the payment of Rs.2/- per copy and obtain the information. If no payment is made, information obviously will not be provided. The appellant's attention is invited to the preamble of the Act which envisages the exercising the right to information by the residents of the State for ensuring transparency and accountability in the working of public authorities and the Commission is entrusted with the job to over see whether this objective is fulfilled by the public authorities as well as by the users of the RTI. The Commission would, therefore, request him that once he obtains the information how he intends to use it, the Commission be informed accordingly. In any other case where information has already been received by him, he is expected to use same for the purpose laid down in the preamble of the Act.

Second appeal is accordingly disposed of.

Sd/-
(G.R. Sufi)
State Chief Information Commissioner

Copy to:-

1. Commr/Secretary to Government, Agriculture Production Department (Horticulture), Civil Secretariat, Jammu
2. First Appellate Authority, Directorate of Horticulture, Planning & Marketing J&K Jammu.
3. Public Information Officer, Directorate of Horticulture, Planning & Marketing, J&K Jammu.
4. Shri Dheeraj Sharma S/o Shri Ram Saroop Sharma, R/o Dhangri, Tehsil & District Rajouri.
5. Private Secretary Chief Information Commissioner.
6. Guard File.

(G.Q. Bhat)
Registrar
State Information Commission