



J&K State Chief Information Commissioner
Old Assembly Complex, Srinagar. Fax ;0194-2484268,2484269
Wazarat Road, Jammu. Fax No: 0191-2520947, 2520927

File No.SIC/CO/SA/111/2014

Decision No.SIC/CO/SA/111/2014/587

Title:- Shri Abdul Rashid Tantray S/o Shri Abdul Khaliq Tantray R/o
Bohipora, Kupwara.

V/s

1. First Appellate Authority,
Health & Medical Education Department,
Civil Secretariat, J&K, Jammu.
2. Public Information Officer,
Health & Medical Education Department,
Civil Secretariat, J&K, Jammu.

Jammu

18-2-2014

This is a second appeal filed by Shri Abdul Rashid Tantray, a resident of the state before this Commission on 16-1-2014. Dr. Des Raj Bhagat, PIO Health & Medical Education Department attended. The appellant has also been heard.

The brief grounds of the appeal are that the appellant had filed RTI application before PIO, Health & Medical Education Department, Civil Secretariat, Jammu for seeking certain information as per RTI application dated 18-9-2013 which was received in the office of PIO on 18-9-2013. The PIO had to pass an order by 17-10-2013. As no order was passed by the PIO the appellant filed first appeal before the FAA, Health & Medical Education Department on

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8-11-2013 which has been acknowledged by the FAA vide his order dated 10-12-2013. The FAA had directed the PIO to provide information within "stipulated time". The appellant filed second appeal before this commission on 16-1-2014 stating therein that neither PIO disposed of the RTI application nor the FAA discharged his quasi judicial duties and therefore the appellant filed appeal before the Commission for disclosure of information. The FAA has no doubt submitted a copy of "order" before this Commission which is claimed to have been passed on 10-12-2013 but it has not been proved before this Commission whether this order was served on the appellant. The so called order passed by the FAA is addressed only to PIO, no copy has been made to the appellant. The sense of law is that the appellant has to be informed about the fact of the adjudication of appeal. Secondly as per principle of natural justice appellant had to be given opportunity to be heard in person. Thirdly FAA is to prove before the Commission that so called order so passed has been served on the appellant. The appellant had filed appeal in the second week of January, 2014 and the so called order of FAA is dated 10-12-2013. The rebuttable presumption is that the order has been passed in back date and even this back dated order is bereft of legal requirements. The immediate officer of the Health & Medical Education i.e Secretary, Health is required to investigate whether the so called order was really passed on 10-12-2013 and if so whether the order was served on the appellant.

The PIO has admitted before this Commission that the information could not be given on time because requisite records which were the subject matter of RTI application were mixed up with other file and after Commission's intervention the file has been traced and information is ready for dispatch to the

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information seeker. The PIO is directed to ensure that the information so asked for is received by the information seeker within 5 days from pronouncement of this order in the open chamber of the Commissioner on 18-2-2014. As the order passed is late, the PIO Dr. Des Raj Bhagat is directed to explain reasons if any, why penalty under section 17 of the Act may not be imposed on him for not passing order within stipulated period of time. His reply if any must reach to this Commission within 30 days.

Appeal is accordingly disposed of.

Sd/-
G.R.Sufi,
Chief Information Commission.

Copy to the:-

1. First Appellate Authority, Health & Medical Education Department, Civil Secretariat, J&K, Jammu.
2. Public Information Officer, Health & Medical Education Department, Civil Secretariat, J&K, Jammu.
3. Shri Abdul Rashid Tantray S/o Shri Abdul Khaliq Tantray R/o Bohipora, Kupwara.
4. Private Secretary to HCIC.
5. Guard file.

(G.Q.Bhat)
Registrar,
State Information Commission,
J&K, Jammu.