



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

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File No.SIC/CO/SA/112/2014

Decision No.SIC/CO/SA/112/2014/589

Title:- Shri B.R.Manhas, Advocate R/o 164, Janipur Housing Colony,  
Jammu.

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

20-2-2014.

In this case an interim order was passed by the Commission on 13-2-2014. In the interim order direction was given to PIO and FAA to enquire from concerned staff working under them whether they have received RTI application and first appeal sent by the information seeker through speed post. In the meanwhile the PIO was also directed to provide information to the appellant within a week's time and appeal was further posted for hearing on 20-2-2014. Shri B.R.Manhas, Advocate (Appellant) and Shri Naseem Javaid Chowdhary, Addl. Secretary-Cum-PIO attended. The information seeker has stated that the speed

post delivery is monitored through the website of Indian Postal Service and information remains on the net for three months. Therefore, the confirmation of delivery of speed post could not be given. Further he has submitted that he contacted the speed post section of Post Office, Srinagar on phone No.01942480538 and was informed by the concerned staff of Srinagar Post Office that bag No.EB839533413-IN which was posted from High Court Post Office, Jammu was received at Srinagar Post Office under serial No.1897 bag No.EBE5000750740 on 16-10-2013 and was delivered on the same date at New Secretariat, Srinagar. This statement of the learned appellant pertained to his claim of filing first appeal before FAA. As the un-rebuttable evidence with regard to filing of RTI application is not forthcoming, hence, the Commission is constrained not to initiate any action under section 17 of the State RTI Act against the PIO. It is thus deemed that RTI application has been received by the PIO on 4-2-2014 when it is forwarded by the Commission along with second appeal documents filed by the appellant. The PIO accordingly passed requisite order on 19-2-2014 under No. HD-PSD/08/2014 and sent it by post, copy of which handed over to the appellant during the proceeding before this Commission.

It would be relevant to reproduce the information sought by the information seeker:-

“Kindly find enclosed Government Order No.940-HME of 1997 dated 27-10-1997 regarding granting of the Minority status to the Acharya Shri Chander College and Hospital Jammu and in this regard, kindly provide the following information under the provisions of J&K RTI Act, 2009:

1. Whether Acharya Shri Chander College and Hospital Jammu is Hindu Minority Institution or a Muslim Minority Medical College or any other/
2. Kindly provide to the appellant, copy of the Memorandum

submitted to the State Cabinet as well as the copy of the Cabinet decision, by the medium of which, Acharya Chander College and Hospital Jammu has been granted the status of Minority Medical College and pursuant to which the above said Government order No.940-HME of 1997 dated 27-10-1997 has been issued.

3. Kindly inform the applicant whether Acharya Shri Chander College and Hospital Jammu has been provided fee land or on subsidized rates. In either case kindly inform the applicant as to how much land is in the possession of Acharya Shri Chander College and Hospital Jammu; And in Case the land was given to the college on subsidized rates, How much amount was paid by the College and to which Department/Organization.”

The PIO replied this query giving a copy of same order which was provided by the information seeker along with his RTI application which confirms that Acharya Shri Chander College and Hospital, Jammu was conferred the status of Minority Medical College. The appellant submitted before this Commission that the PIO has not given the information which was sought by him and which is to the effect whether Acharya Shri Chander Medical College and Hospital was conferred with Hindu Minority Institution or Muslim Minority Medical College or any other status. The PIO has replied that the file which contained the information is not traceable in the record and information was not thus readily available to him. He cannot commit himself with regard to providing this information i.e whether Acharya Shri Chander College and Hospital is designated as a Hindu or Muslim or any other Minority status institution. The information seeker has alleged that there is no question of this important file being misplaced. The PIO has countered this argument by submitting official record before this Commission whereunder on office noting dated 19-2-2014 it is

recorded that “a meeting was convened with staff members of Health & Medical Education Department by the Addl. Secy. to deliberate the issue of location of record pertaining to information. Noting reads as under:-

“ all efforts were made by the staff members concerned to locate the said file pertaining to the subject. However, some files pertaining to Acharya Shri Chander College & Hospital, Jammu were presented before him(Addl. Secy) by the record keepers. But relevant file/files are not available as reported by the concerned record keepers(NG/Gaz) of the Department. As the records are two decades old. On the receipt of communication dated 11-2-2014 from Addl. Secy. the concerned were again directed to have thorough search of record once again but nothing has been traced out from the records.”

Nothing emerges from the record to know when the record was found to be missing, whether there are any rules of preservation, destroying and weeding out of the records, whether any action was taken against the official/officer or staff member who are responsible for preserving record which is of high public value. Second and third points of information has also been replied by the PIO and appellant has accepted the decision of the PIO.

The Commission is of the considered opinion that this record being of high public value should have not been dealt with routinely. The senior officers of the ministry are expected to consider whether any action has to be taken for fixing responsible for misplacing the record. The Commission further observes that in case the plea are being taken by the public authorities that record is missing, that would defeat the very purpose and rationale of the State RTI. The Commission would

also like to bring to the notice of the public authority provisions of law as contained in section 4(a) of the Act which reads as under:-

**“Every public authority shall maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under the Act and ensure that all records that are appropriate to be computerized are, within a reasonable time and subject to availability of resources, computerized and connected through a network all over the State on different systems so that access to such record is facilitated.”**

The State RTI Act is in operation in the State of Jammu and Kashmir for 5 years. The Commission, therefore, considered that the reasonable time to the public authorities is already over and now it is high time that the mandate of the Act be implemented and honoured.

Order was passed in open court in presence of the parties.

Second appeal is accordingly disposed of.

Sd/-

G.R.Sufi,

Chief Information Commissioner.

Copy to the:-

1. Secretary to Government, Health & Medical Education Department, Civil Secretariat, J&K, Jammu.
2. First Appellate Authority, Health & Medical Education Department, Civil Secretariat, J&K, Jammu.
3. Public Information Officer, Health & Medical Education Department, Civil Secretariat, J&K, Jammu.
4. Private Secretary to HCIC.
5. Guard file.

***(Encls: two leaves)***

(G.Q.Bhat)

Registrar,

J&K State Information Commission.