



Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

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File No: SIC/CO/SA/107/2014

Decision No: SIC/CO/SA/107/2014-596

Title:- Madan Mohan Sharma
V/s
PIO Higher Education Department

Jammu

17.02.2014

This is a second appeal filed by Shri Madan Mohan Sharma, a resident of the State in this Commission on 08.01.2014. Shri Anil Gupta, Special Secretary – cum-FAA, Higher Education Department and Shri Javed Ahmed Reshi, Under Secretary-cum-PIO, Higher Education Department attended. Shri Madan Mohan Sharma, the appellant also attended. They have been heard.

2. Brief grounds of the second appeal are that the appellant filed an RTI application before PIO on 27.11.2013 seeking information which is reproduced as under:

1. Is there any transfer policy in higher education department
2. If yes, than after how many years a college principal retain in a college?
3. Give the list of those principals who never transfer from last five years in city Municipal limits?
4. Give the list of those principals who never transfer from Jammu city during last five years?

Initially the PIO vide his order dated: 18.12.2013 refused to give information on the plea that said information was not available in the department in the shape of documents and the information so sought involves creation of information which is not mandated under the Act.

2. Aggrieved with the order of PIO, the appellant filed first appeal before the FAA on 16.12.2013. The then FAA failed to adjudicate the first appeal and the present FAA who was designated as FAA vide order No: 29-HE of 2014 dated: 22.01.2014 called the appellant and the PIO in his office on 6.2.2014 and heard both the parties. After hearing both the parties, the FAA adjudicated the first appeal with the directions to the PIO that keeping in view the intentions of the appellant and in the spirit of RTI Act, to explore the possibility of providing information as far as possible to the information seeker within 10 days from the issuance of his order free of cost. PIO, Higher Education Department also acted promptly and provided information to the appellant on 07.02.2014.

3. The information provided by the PIO vide his order dated: 7.2.2014 is as under:-

Query	Reply
1 & 2	There is no separate policy in the Higher Education Department. Hence reply to part1 & 2 may be treated as nil
3 & 4	The stay list of Principals is enclosed herewith depicting the details of this stay/ posting details in the respective places/colleges

The appellant has also admitted of having received the said information and also requested for closure of the case. The PIO has discharged his obligation cast on him under the Act. However, Commission would like to observe that in order to meet the standards of transparency and accountability which is the mandate of the State RTI Act and in order to ensure that there is no vested interest served by allowing few officers and officials to continue on a particular job for an unlimited period and frequently transfer certain other officers and officials without assigning any reasons. The arbitrariness in the Government decisions with regard to posting and transfers of government officers and staff, a well thought transfer policies are playing an important role.

4. Since the present FAA and the PIO of Higher Education Department has acted promptly and have honored the provisions of the State RTI Act and have provided information to the information seeker, the second appeal is accordingly disposed of.

5. The list of officers which shows their stay on their job has been perused by the Commission and it has been found that one particular officer/Principal has been occupying the post since 1995 in the same wing of Education Department.

That means that he has been kept on the particular job for 18 years whereas there are number of other incumbents who have been shuffled like pack of cards within six months or within a year. The Commission observes that had there been a transfer policy in operation, it would have not been possible. As per the preamble of the State RTI Act, the Commission is mandated with the job of bringing transparency and accountability in the working of every public authority and the working of said authorities has to be transparent and accountable. Having no transfer policy and leaving posting and transfer of officers to the pure discretion of the superiors is prone to lead to arbitrariness which leads to favoritism which is against transparency.

6. The Commission has observed that the information seeker has filed number of RTI applications exercising his right to information as conferred on him by the State RTI Act. The Commission is once again drawing his attention to the mandate of the Act which lays down that the right to seek information is to be used for promoting transparency and accountability in the working of every public authority and Commission is saddled with the responsibilities of ensuring that this right is used for the purpose laid down in the preamble of the State RTI Act 2009. The Commission expects that the information seeker uses his right in the spirit of the preamble of the Act.

Sd/-

(G.R. Sufi)

State Chief Information Commissioner

Copy to:-

1. Commr/Secretary to Government, Higher Education Deptt. Civil Sectt. Jammu
2. First Appellate Authority, Higher Education Deptt. Civil Sectt. Jammu
3. Public Information Officer, Higher Education Deptt. Civil Sectt. Jammu
4. Sh. Madan Mohan Sharma, Retd. Dy. Commandant DRPF, Old Satwari, Jammu
5. Private Secretary to Chief Information Commissioner
6. Guard file.

(G.Q. Bhat)

Registrar

State Information Commission