



Jammu and Kashmir State information Commission
(Constituted under The Right to Information Act, 2009)
Wazarat Road, Near DC office Jammu, 0191-2520947, 2520937
Old Assembly Complex, Srinagar. 0194-2484269, 2484262
www.jksic.nic.in

File No: SIC-CO/Comp/74/2013
Decision No: SIC-CO/Comp/74/2013/597

Title: Sh M. Yaqub Shahdhar R/o Dharr Building Opposite General Bus Stand
Batmaloo, Srinagar

V/s

PIO/Deputy General Manager JK PCC Limited

Srinagar
25.02.2014.

This is a second appeal filed by Sh. Mohammad Yaqub Shardhar resident of the State before this Commission on 17.09.2013.

Brief grounds of appeal are that appellant filed RTI application on 10.04.2012 before Managing Director J&K Projects Construction Corporation Panama Chowk Jammu. PIO passed order on 31.08.2013. The appellant not being satisfied with the information filed First Appeal on 19.06.2013. First Appeal was also addressed to Managing Director JKPCC with a request that it be forwarded to the concerned First

Appellate Authority. There is nothing on record that Financial Controller who was designed as FAA has adjudicated the appeal for which he was designated as First Appellate Authority. Under the State RTI Act, First Appellate Authority is a quasi-judicial authority who has to adjudicate the appeals in a judicial manner and not in a routine executive fashion. He had to hear appellant as well as PIO but it pains the Commission to find that even after 5 years of operation of State RTI Act in J&K State, authorities who are vested with the powers to implement this Act in the State are not well versed with the provisions of law and treat the duties assigned to them under this Act in a routine and administration fashion. First Appellate Authority is reminded that under law he is a Public Authority and if Public Authority does not discharge his duties in accordance with the law there are legal provisions which may be put in operation for holding such public authorities responsible. First Appellate Authority is advised to go through the provisions of Section 16 of this Act and discharge his duties in future in accordance with the said provisions of the law.

The appellant again being aggrieved filed second appeal before this Commission. The Commission has heard both PIO and appellant. PIO stated that he has passed an order on 31.08.2012. However, the Commission has gone through this order and has found that it suffers from some important infirmities like the information replied under S.No. 3 has not been provided to the information seeker on the plea that this information is possessed and held by unit 3rd. PIO's attention is invited to Section 5 (4) (5) which places a responsibility on the PIO to seek assistance of any other officer with whom a part of information lies to provide the said information to the information seeker if that officer is working under the same public authority. PIO is directed to collect this information and provide the same to the information seeker within 5 days from the pronouncement of this order i.e. today in the open court. Regarding point No.2 information seeker has asked "under whose intervention the authorities used wooden doors and windows instead of aluminium doors and windows." The use of aluminium

doors and windows was already approved by the building designer. PIO stated that this information has been provided to the information seeker i.e. it was under the instructions of HCM that first class teak wood frames for doors and windows were to be used for the Assembly complex. However, information seeker insists in his RTI application that he had asked whether aluminium doors and windows which were recommended by the building designer against fee of allegedly Rs.80 lakhs for the entire building design and as per the appellant building designer had suggested use of aluminium doors and windows. The Commission has nothing to say with regard to this. However, information would be complete if information seeker is provided with a copy of note prepared on the basis of the minutes of the meeting held by HCM vide JKPCC letter No. PS/MD/3936-39 dated 21.09.2009. This note be also provided to the information seeker within 5 days from the date of pronouncement of this order. The information seeker had further asked information for how much amount aluminium doors and windows were purchased and what was the end use of this material. PIO has informed him that these doors and windows have a cost of Rs.85.62 lakhs but as they were not used in the building they have been shifted to other working site which pertains to sister concern of JKPCC. The information seeker informed the Commission that this material is still lying un-used. PIO submitted that the end-user was also communicated to the information seeker on 28.06.2013 vide letter No. DGM/6/Srinagar/622-25 dated 28.06.2013. However, information seeker insists that this information was not received. It is further seen that this information was sent by ordinary post which is not in accordance with RTI Rules 2012. PIO is advised to hand over copy of the same to the information seeker and in future it should be ensured that information is sent through registered post. Commission, has been informed that substantial amount of public money has been used for purchase of material but this material has not been used for the purpose for which money was withdrawn from public treasury but the material is still un-used and is getting heaps of dust and is thus being rusted. This shows absolute insensitivity of the concerned authorities. Commission hopes that concerned authorities would be more sensitive towards these issues in this age of accountability and transparency

PIO is directed to explain the reasons for delay in supplying the information beyond mandatory period under the RTI Act 2009 so that action under Section 17 is initiated against him. The reply of the PIO should reach this Commission within 30 days from the receipt of this order.

The appeal is accordingly disposed of.

(G.R. Sufi)
Chief Information Commissioner