



Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

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File No: SIC/J/II Appeal/06 May/2011

Decision No: SIC/J/II Appeal/06/2011-611

Title:- Vilakshana Singh V/s PIO, J&K Public Service Commission.

Jammu

12.03.2014

In this case, the second appeal filed by the appellant under section 16 of the State RTI Act was adjudicated vide order dated: 2.12.2011 under Decision No: SIC/J/2nd Appeal/6th May 2011/1135-38. During the proceedings under section 16, the Commission had found that appellant had preferred a claim for compensation as provided under section 16(9)(b). The public authority was asked to give the reasons why compensation be not awarded to the appellant for not giving him information on time. The respondent, in compliance with the orders passed by the Commission, vide their letter dated: 27.1.2012 has submitted that the respondent have no intention not to give any information and thus cause any loss or detriment to the appellant as the information also involved information with regard to third parties. Therefore, the Commission had sought the objections of the third party who had objected for providing information. The PIO had also given option to the information seeker to inspect his answer scripts but he did not avail the facility of such inspection. It is further stated by the Secretary Public Service Commission that inspite of resource constraints and other related problems, the respondent had taken various measures to promote the cause of transparency. The respondent had also complied with the Commission's orders.

The respondent further submit that there is no ground for providing compensation. Therefore, public authority strongly opposed for granting any compensation. The appellant while justifying awarding compensation has stated that he had to file second appeal for getting the information and for pursuing his case before the State Information Commission, he had to remain away from his professional engagements which has ultimately caused financial loss to him. The Commission has gone through the facts of the case, perused the written submissions by the public authority as well as the appellant. The right to receive compensation by a complainant under the State RTI Act is provided in section 16(9)(b). It would be appropriate to reproduce the relevant provisions of law which is as under:-

“require the public authority to compensate the complainant for any loss or other detriment suffered”;

The very wording of the act postulates a situation wherein later provides for compensating a complainant for any “loss or other detriment suffered”. Pursuing the right to information by any resident of the state is a legal right given to such citizen and the law has created a machinery for pursuing the right to information. This machinery envisages of filing of application before the PIO or FAA or the second appellate authority i.e the State Information Commission. The mere fact that somebody had to go through this process cannot be considered a detriment or financial loss which the appellant had to suffer. The information can be denied by PIO on any ground which in his view in good faith or where he interprets a provision of law without any malice or malafide i.e in brief his non disclosure may be based on legal grounds as interpreted by him but which the appellate authorities may interpret otherwise. The essence of law is that any quasi judicial authority should interpret the law and if interpretation is in good faith no adverse view can be taken not to talk of awarding compensation to any appellant or complainant. The State RTI Act itself has given protection to actions taken by the public authorities in good faith under section 8. The Commission is of the considered opinion that merely pursuing the various legal methods i.e filing an appeal before the Commission or the first appellate authority does in no case entitle the appellant to be awarded compensation.

Therefore, in the opinion of the Commission no ground has been made out for providing compensation as laid down in section 16(9)(b). Therefore, the

appellant's claim for compensation is hereby rejected.

Sd/-
(G.R. Sufi)

State Chief Information Commissioner

Copy to:-

1. First Appellate Authority, J&K Public Service Commission, Jammu
2. Public Information Officer, J&K Public Service Commission, Jammu
3. Shri Vilakshana Singh, R/o Sidhra Bye Pass, Jammu
4. Private Secretary to Chief Information Commissioner
5. Guard File.

(G.Q. Bhat)
Registrar
State Information Commissioner