



J&K State Chief Information Commissioner
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File No. SIC/CO/SA/108 /2014/
Decision No. SIC/CO/SA/108 /2014/620

Title: Shri Sharaz Ahmad Malik

V/S

- 1. First Appellate Authority, Tourism Department, Civil Secretariat, J&K, Jammu.***
- 2. Public Information Officer, Tourism Department, Civil Secretariat, J&K, Jammu.***

Jammu
17-04-2014

This is a 2nd Appeal filed by Shri Sharaz Ahmad Malik S/o Mohammad Yaqoob Malik R/o Drabu Tehsil Surankote Dirstrict Poonch before this Commission on 08-01-2014 against the alleged inaction of PIO and FAA, Tourism Department, Civil Secretariat, J&K, Jammu. The PIO, Tourism Department, representative of FAA and the appellant attended the Commission. During the proceedings, the PIO informed the Commission that as soon as RTI application under section 6 for providing information was received in his office, the reference were made to various PIOs working under the administrative control of Tourism Department, Civil Secretariat and J&K Tourist Development Corporation, invoking section 7 of the Act and requested to provide information directly to the information seeker. This was necessitated because information sought by the information seeker was not at all available in the office

records of Tourism Department, Civil Secretariat, as informed by the PIO. The Commission has gone through forwarding letters issued by the PIO, Tourism Department, Civil Secretariat to various sub ordinate office of the Tourism Department and the submissions made by the appellant and found that some of the PIOs did respond, whereas, majority of the PIOs did not respond to the communication served from the office of PIO, Tourism Department, Civil Secretariat, J&K and thus failed to provide information within time stipulated under the Act. The PIO, Tourism Department, Civil Secretariat, J&K should have explicitly made it clear to other PIOs that any consequence, which will follow for non compliance with the provisions of the law, will lead to the imposition of penalty. The PIO is advised in future that whenever section 6 and 7 are invoked, the concerned PIOs should be told against the consequences of non compliance of State RTI Act and to respond to the RTI applications.

It is seen that information seeker had sought information on 11 points, though as per law, he is not bound to give reasons for seeking information, the Commission, however has found that the information seeker is a young research scholar and had to prepare a research work titled "Impact of Tourism on J&K Economy". The information thus required was for a cause, which could have even helped the Tourism Department or J&K TDC itself. With regard to non disposal of first appeal, the Commission has found that first appeal was not signed by the appellant himself, some person has signed on his behalf. Under section 3 read with section 6 of J&K RTI Act, 2009, every person residing in the state of J&K has the right to obtain information from a public authority. Similarly, under section 6, only a person who desires to obtain information under the Act, shall make a request in writing for getting such information. The right to appeal before First Appellate Authority has been granted to such person who is making the request for getting information. As per section 16(1) of the Act, such person has been vested with the power to make an appeal against inaction of PIO to such an officer, who is senior in rank to the PIO of same public authority. Hence, the first appeal made by some person on behalf of appellant is legally not tenable and the FAA therefore was

not liable to take any action on the first appeal. The appellant is advised that if in future, he want to pursue RTI Act, he should get acquainted with the provisions of law.

Out of 11 points raised in RTI application, most of the information has been given by and large though in certain cases late and in some cases vague, as stated by the appellant. However, the PIO, Poonch Tourist Development Authority has not so far responded at all, though RTI application was transferred to him in time. Treating him as deemed PIO, Shri Haneef Tantray, Accounts Officer-cum-PIO, Poonch Development Authority is directed to explain as to why penalty may not be imposed upon him for not providing information within 30 days from the receipt of communication from PIO, Tourism Department, Civil Secretariat, J&K, Jammu. His reply if any should reach the Commission within 15 days. The Secretary-cum-First Appellate Authority, Tourism Department, Civil Secretariat, J&K, Jammu is requested to take any suitable action, as deemed fit against said officer. The Commission would like to be intimated about the action taken, if any, against the said officer.

The 2nd Appeal is accordingly disposed of.

Sd/-
(G. R. Sufi)
Chief Information Commissioner

Copy to the:-

1. First Appellate Authority, Tourism Department, Civil Secretariat, J&K, Jammu.
2. Public Information Officer, Tourism Department, Civil Secretariat, J&K, Jammu.
3. Shri Sharaz Ahmad Malik S/o Shri Mohammad Yaqoob Malik R/o Drabu Tehsil Surankote District Poonch (Appellant).
4. Pvt. Secretary to HCIC.
5. Guard File.

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