



J&K State Chief Information Commissioner  
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Wazarat Road, Jammu. Fax No: 0191-2520947, 2520927  
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File No. SIC/CO/SA/199 /2014/  
**Decision No. SIC/CO/ SA/199 /2014/ 696**

**Title: Shri Pradeep Kumar Sharma**

**V/S**

**PIO / FAA, J&K Service Selection Board.**

**Jammu**  
**08-12-2014**

This is a 2<sup>nd</sup> appeal filed by Shri Pradeep Kumar Sharma, a resident of the State against PIO, J&KSSB, Divisional Office, Jammu against the inaction of FAA/PIO, JKSSB on his RTI application dated: 17-04-2014. Mr. Shamim Kriapak, Administrative Officer-cum-PIO, JKSSB, Divisional Office, Jammu and the appellant attended the Commission. Brief facts of the case are that the appellant filed an RTI application before PIO, JKSSB, Divisional Office, Jammu on 17-04-2014 seeking following information;

1. Detailed selection criteria of Tradesman posts in Transport department advertised by SSB published in Daily Excelsior vide SSB advertisement Notice No. 06 of 2005 dated: 21-11-2005.
2. Detailed list of shortlisted candidates of both Jammu and Kashmir regions for Tradesman in Transport department published vide SSB Notice No. 6 of 2005 dated: 21-11-2005.
3. Select list of candidates who had applied for Tradesman in Transport department of both Jammu and Kashmir regions advertised by SSB vide advertisement Notice No. 6 of 2005 dated: 21-11-2005.

The PIO was under legal obligation to pass an order on this application as expeditiously as possible but not later than 30 days of the receipt of this application. The PIO submitted before the Commission that information so sought was not readily available with him, therefore, he made a reference to APIO under Section 5(4) of J&K RTI Act, 2009 vide his letter dated: 22-04-2014 for seeking assistance. As he did not

receive any assistance from the concerned APIO, as claimed by him, no order was passed under Section 7 within a maximum period of 30 days plus 05 days. Consequently, appellant having not received any response from the PIO, preferred first appeal before First Appellate Authority, JKSSb on 18-07-2014, received in his office on 24-07-2014. In his first appeal, appellant had prayed before FAA to issue a direction to the concerned PIO to provide him information so sought. The PIO further submitted on behalf of FAA that an opportunity notice was sent to the appellant to attend FAA's office to argue his appeal. However, the appellant has informed the Commission that he received this notice after the date of hearing fixed before FAA. The Commission accordingly called receipt/dispatch register of the FAA and found that though the dispatch in the register was dated as 01-10-2014 but it was actually sent to the postal authorities on 10-10-2014 and it took few days for the postal authorities to get it served to the appellant and consequently appellant could not attend before FAA because it was delivered on 15-10-2014 when the date had already expired. The Commission is constrained to observe that there is a lack of control over the sub-ordinate staff in dealing with RTI matters. The concerned lower staff has taken 10 days to do needful, i.e., dispatch notice through post. The opportunity notice given to the appellant to appear before FAA to argue his case thus became a technical formality. The Commission has taken a serious view of this. The FAA is cast with a judicial function of adjudicating first appeals. This function has been assigned to him by competent authority by designating him as FAA. He was legally bound to discharge his job. The FAA is once again advised to take his job seriously. In case of his failure to discharge his duties as caste on him under J&K RTI Act, 2009, Commission may consider referring his case under Section 17(2) of J&K RTI Act, 2009 read with J&K Service Rules for taking disciplinary action against him for his non serious approach with the spirit of the law.

The Commission has observed that invoking Section 5(4) has also been done in a technical fashion. The APIO being a junior functionary to PIO has not paid any heed to the requisition of PIO to render his assistance to him for providing information to the information seeker. The PIO has not followed his communication with seriousness as it deserved. Hence, till the date of filing 2<sup>nd</sup> appeal in this Commission, no action was taken within the statutory period of time. The PIO has not bothered to identify APIO so that his responsibility could have been fixed. Holding the public authority responsible is

one of the prominent features of the J&K RTI Act, 2009. The PIO is therefore directed to explain why penalty under Section 17 of J&K RTI Act, 2009 may not be imposed on him for not passing order under Section 7 within statutory period of time. His reply must reach the Commission within 15 days of the receipt of this order. Though in the communication produced before the Commission, the APIO has not been identified, it was informed by the PIO that the APIO was one Mr. Syed Altaf, presently Section Officer in State Vigilance Commission, J&K, Jammu. Mr. Syed Altaf, Section Officer, State Vigilance Commission, J&K, Jammu, the then APIO, JKSSB is directed to explain why penalty as provided under Section 17 read with Section 5 of J&K RTI Act, 2009 may not be imposed on for not providing assistance to the PIO. His reply, if any must reach the Commission within 15 days of the receipt of this order.

The Commission would like to bring the attention of PIO to Section 5 which provides that PIO will seek assistance from the APIO if any within a statutory time period and then pass an order himself to save himself from the penalty proceedings. As the PIO has passed no order so far, an action under Section 17 has been initiated against him as indicated above. The PIO is directed to pass order expeditiously strictly in accordance with information sought in the RTI application.

The 2<sup>nd</sup> Appeal is accordingly disposed of.

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

Copy to the:-

1. First Appellate Authority, J&K, Service Selection Board, Jammu.
2. Public Information Officer, J&K, Service Selection Board, Divisional Office, Jammu.
3. Mr. Pradeep Kumar Sharma S/o Shri Baghat Ram Sharma R/o VPO, Badyal Brahmana Basti, Prem Nagar, R.S.Pura, Jammu (Appellant).
4. Pvt. Secretary to HCIC.
5. Guard File.

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