



J&K State Information Commission
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www.jksic.nic.in

File No: SIC/CO/SA/195/2014
Decision No: SIC/CO/SA/195/2014/709

Title:- Amarpreet Singh V/s PIO State Consumer Commission
Jammu
31.12.2014

This is a second appeal filed by Shri Amarpreet Singh, a resident of the state in this Commission on 31.7.2014 making prayer for direction by the Commission to the public authority/PIO of J&K State Consumer Disputes Redressal Commission, Jammu for providing information strictly as sought in the RTI application dated: 5.3.2014. The Appellant Shri Amarpreet Singh has been heard. From the Commission Shri P.K. Raina and Shri Pran Nath Raina representing the Consumer Commission attended. The brief facts and grounds of the appeal in this case are as under:-

That the appellant filed an RTI application before the PIO, Consumer Disputes Redressal Commission seeking the following information:-

“ Kindly inform the applicant whether the monthly retainership/fee of the counsel for the period of 21.02.2012 to 21.02.2013 had been disbursed to any Advocate till date or not. If not why the same has been delayed for such a long time despite repeated requests personally and in written sent to you by the Advocate engaged vide Govt. Order No: 906-LD (Est) of 2012 dated: 21.02.2012 of Govt. of Jammu and Kashmir Department of Law, Justice and Parliamentary

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Affairs and joining report submitted to you by the concerned Advocate on the same date”.

Shri P.K. Raina, Private Secretary to the President J&K State Consumer Dispute Redressal Commission, Jammu disposed of the RTI application vide his communication under No: 441- 44 dated: 1.4.2014. The order has thus been passed within the time laid down in Section 7 of the J&K State RTI Act, 2009. The first point of information was replied by the deemed PIO in negative. Similarly, second point of information was also given in negative by stating that copy of Govt. order referred was never received in the Commission. Not being satisfied with this order, the appellant preferred first appeal in the office of FAA on 30.4.2014. However, the first appeal so filed was not adjudicated by the FAA within the time as laid down in Section 16 of the J&K State RTI Act, 2009. Hence, being aggrieved, the appellant has approached this Commission with the second appeal as mentioned above. The Commission has heard the deemed PIO as well as the appellant. The PIO in his response to RTI application of the appellant has mentioned that the Consumer Commission had no case whatsoever pending which was to be handled by the standing counsel. The plea was taken that Commission has no intention to engage services of information seeker as standing counsel and hence no monthly remuneration was paid. The Commission has found that the RTI application was received in the office of Consumer Disputes Redressal Commission, as acknowledged by the deemed PIO. The appellant has stated that information provided by the PIO is incorrect to the extent that in consequence of Government Order No: 906-LD(Est) of 2012 dated: 21.02.2012 designating him as standing counsel for Consumer Disputes Redressal Commission he joined before Director Litigation J&K. The appellant has adduced evidence in the shape of copy of the joining report addressed to Director Litigation on 23.2.2012 which has been acknowledged by the office of Director

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Litigation on the same day with a copy forwarded to Chairman Consumer Disputes Redressal Commission.

The RTI application reveals that the appellant wanted to know whether monthly retainership/fees of the counsel for the period 21.2.2012 to 21.2.2013 had been disbursed to any Advocate till date or not, if not why the same been delayed for such long time despite repeated requests. To this the deemed PIO has informed him that no disbursement has been made and reasons have been given that there was no need for taking the services of a standing counsel. Information is on the basis of evidence adduced before the Commission is prima facie incorrect because there is a Government Order appointing him as standing counsel with Consumer Disputes Redressal Commission and his retainership is also fixed as Rs.3000/- vide above said Government order. During the hearing of the appeal, the Commission found that the public authority of Consumer Disputes Redressal Commission has not discharged the legal obligation cast on him under section 5 of the J&K State RTI Act, 2009 to appoint a PIO and APIO. However, as Shri P.K Raina has responded to the RTI application on behalf of the Commission. Therefore, he is deemed to be the PIO who has disposed of the RTI application. Therefore, he is given an opportunity to explain why penalty under section 17 may not be initiated for providing incorrect information to the appellant. Commission invites the attention of FAA of Consumer Disputes Redressal Commission to Section 16 of the J&K State RTI Act, 2009 which has placed a statutory obligation on him to adjudicate the appeal within a maximum period of 45 days which he has not done. Similarly, nothing has been brought to the notice of Commission to find whether any concerned officer has been designated as FAA as is required under Section 16 of the J&K State RTI Act, 2009.

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Commission has further observed that the respondent is a public authority in terms of section 2 of the State RTI Act, 2009 and accordingly under Section 5 of the State RTI Act 2009, every public authority has to within one hundred days of the commencement of the Act i.e from June 2009 designated as many officers as Public Information Officers in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under the Act. Similarly, there has to be a FAA under Section 16 for deciding appeals. The appeal has to be sent to a officer who is senior in rank to the PIO, in each public authority.

Vide Section 16(9), the Commission is empowered to “require the public authority to take any such steps as may be necessary to secure compliance with the provisions of the Act including appointing a Public Information Officer”. The public authority of Consumer Disputes Redressal Commission is, therefore, required to appoint a PIO and FAA within 15 days from the receipt of this order under an intimation to this Commission.

The appeal is accordingly disposed of.

Sd/-

(G.R. Sufi)

Chief Information Commission

Copy to:-

1. Chairman, J&K State Consumer Disputes Redressal Commission, Jammu
2. Shri P.K Raina, Private Secretary-cum-PIO, J&K State Consumer Disputes Redressal Commission, Jammu
3. Shri Amarpreet Singh, Advocate R/o H.No: 117, Lane No 11, Adarsh Vihar, Channi Deeli Adjoining Jodhamal Public School, By Pass Jammu.
4. Private Secretary to Chief Information Commissioner
5. Guard file

(G.Q. Bhat)

Registrar

State Information Commission