



J&K State Information Commission  
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File No: SIC/CO/SA/208/2014  
Decision No: SIC/CO/SA/208/2014/710

Title:- Shiv Shanker Sharma V/s PIO SICOP

Jammu  
01.01.2015

This is a second appeal filed by Shri Shiv Shanker Sharma, a resident of the State in this Commission on 25.10.2014. Hearing was fixed on 01.01.2015. Shri S.K. Jain, General Manager-cum-PIO SICOP, Shri G.H. Mir, General Manager and representative of FAA and Shri Shiv Shanker Sharma, appellant attended. They were heard.

Brief facts and grounds of second appeal are that the appellant filed an RTI application before the PIO SICOP on 8.4.2014 seeking the following information:

1. List of all employees (including Permanent/Temporary, Plan/Non-Plan, Gazetted/Non-Gazetted, Technical/Non-Technical, Contractual, Permanent daily wagers, Casual/Need based daily wagers) working under your kind control.
2. Service date of all the listed employees (including Name, parentage, Residence, Qualification, No & Date of appointment, Amount of salary per month) as per item no. 1
3. Photo copies of all appointment letters issued by your office or your subordinate officers since 1<sup>st</sup> April 2008 till 31<sup>st</sup> March 2014 indicating

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the authority for making such appointments (including photo copies of the relevant SRO/Notification/Selection list or any other Written Authority).

PIO had to pass an order as expeditiously as possible but not later than 30 days. But since the information sought was not with the PIO, he invoked section 5(4) of the State RTI Act, 2009 vide his communication dated: 25.4.2014 requesting Shri M.L Koul, Divisional Manager (Administration) Head Office, SICOP for assistance. PIO states that no assistance was provided to him by Shri M.L Koul. As no assistance was provided to him, therefore, he did not adhere to the time limit of 30+5 days to provide information to the information seeker. Shri M.L Koul, Divisional Manager, Head Office SICOP is directed to explain why penalty under section 17 of the J&K State RTI Act, 2009 may not be imposed on him treating him as deemed PIO in default as referred in Section 5(5) of the J&K State RTI Act, 2009. His reply, if any, must reach this Commission within 15 days from the date of receipt of this order. Present PIO Shri S.K. Jain is required to serve a copy of this order on Shri M.L. Koul. As the appellant did not receive any response from the PIO, he preferred first appeal before the FAA on 09.06.2014 which was received by the office of FAA on 28.6.2014 raising the ground of appeal that no response was received from PIO within stipulated time. So called order by the FAA dated: 15.7.2014 was produced by the representative of the appellate authority before the Commission wherein the PIO has been directed to provide information to the information seeker within 15 days after the receipt of the order. It is shocking to find that FAA has not gone through the provisions of section 16 of the J&K State RTI Act, 2009 and has not decided the appeal in the true spirit of law and procedure. His order is rather an apology for the PIO for not respecting the law of the land i.e providing information within statutory period as laid down in the Act. He has also failed to ensure that his subordinate

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officer i.e the PIO and other officers/officials in his organization does follow his directions.

Had the FAA gone through Section 16(3) of the J&K State RTI Act, 2009, he would have found that he had to make a reference to the Commission against the PIO and Shri M.L Koul, Divisional Manager The PIO and the representative of FAA are now informing the Commission that part information was given to the appellant which was received by the appellant on 26.11.2014 i.e the period when the Commission had already started processing the appeal of the appellant which was received in the Commission on 25.10.2014 and counter statement of PIO and FAA was asked from the PIO and FAA vide Commission's Notice under No: 1196-98 dated: 12.11.2014. The Commission would once again remind the FAA about his statutory duty which is cast on him under section 16 of the J&K State RTI Act, 2009. This is a public duty cast on him and failure to discharge public duties may lead to action being considered under Ranbir Penal Code and Service Rules. Therefore, FAA is once again advised to discharge his duties as cast on him under J&K State RTI Act, 2009 in accordance with the aim and spirit of the RTI Act.

The Commission would like the appellant to go through the information so handed over to him during the hearing of this appeal and in case information is found to be incomplete, incorrect and misleading, his attention is invited to section 15 of the J&K State RTI Act, 2009.

The Commission has observed that the information so asked by the appellant runs into number of pages which consume lot of time of government officers/officials to compile the information. For ensuring that precious time of government functionaries is utilized for productive work, a minimum cost is put on seeking voluminous information, section 7(2) and (3) of the State RTI Act, 2009. cost of such

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requisition of voluminous information has to be recovered by the PIO from such information seeker. This requisition was to be made within 30 days from the receipt of RTI application. No such requisition has been made by the PIO and by his failure to receive such cost, he has caused a monetary loss which otherwise was due to his organization. This prima facie has happened because the PIO has not gone through the relevant provisions of law. The Commission would once again require the PIO(s) and FAA(s) to go through the relevant provisions of the Act rather to decide the RTI applications in a mere technical and administrative fashion.

The information seeker's attention is invited to ideals and purpose which are laid down in the preamble of the Act for enacting such a revolutionary Act in the state of Jammu and Kashmir. The legislation is intended for bringing transparency and accountability in the working of every public authority as laid down in the preamble of the RTI Act. The Hon'ble Supreme Court has number of times held that preamble of any legislation is part of that legislation. Therefore, basic purpose of seeking and obtaining information is not to satisfy some body's curious mind or make such a 'superior' one but use such information for bringing transparency and accountability in the working of the public authorities. The information seeker is, therefore, directed to apprise the Commission what is the user of this voluminous information. The information covers almost the entire structure of public sector organization i.e SICOP. The information seeker will inform the Commission within a period of one month how he has utilized the information so obtained.

Sd/-

( G.R. Sufi )

Chief Information Commissioner

Copy to:-

1. Managing Director-cum-FAA, J&K SICOP, Jammu
2. Shri S.K. Jain, Genral Manager-cum-PIO, J&K SICOP, Jammu
3. Shri M.L. Koul, General Manager, J&K SICOP, Srinagar
4. Shri Shiv Shanker Sharma, R/o Village Karayara, P/O & Tehsil Hiranagar
5. Private Secretary to Chief Information Commissioner
6. Guard file.

( G.Q. Bhat )  
Registrar  
State Information Commission