



J&K State Information Commission
Old Assembly Complex, Srinagar : 0194-2484267
Wazarat Road, Near DC office , Jammu: 0191-2520937.

www.jksic.nic.in

File No: SIC/CO/SA/219/2014
Decision No: SIC/CO/SA/219/2014/714

Title:- Bishen Singh V/s PIO School Education Department

Jammu
14.01.2015

This is a second appeal filed by Shri Bishen Singh, a resident of the state in this Commission on 14.8.2014. Shri S.A. Wani, SLO-cum-PIO, School Education Department, Shri Bishen Singh and his Counsel Shri Ajay Kumar, Advocate appeared before the Commission. They have been heard.

Brief grounds of the appeal are that the appellant filed an RTI application before the PIO, School Education Department on 3.4.2014. The PO invoked Section 6(3) of the J&K State RTI Act, 2009 and forwarded the RTI application to different PIO(s) in the Education Department. During the hearing of the appeal, the learned counsel for the appellant strongly contended that the PIO's findings invoking Section 6(3) is erroneous as Section 6(3) talks about another public authority under whose control information rests. The application transferred by the PIO School Education Department is not to a different public authority but it has been transferred to Chief Education Officer, Ramban who is authority falling under the administrative control

..2..

of Commr/Secretary School Education Department. Hence it is the same public authority. The PIO under such situation should invoke section 5 and seek the assistance of another PIO in case maximum information lies with him and information is under the control and in the possession of a different PIO working under the same public authority. PIO has been advised to go through section 5 and 6 carefully and act in accordance with the spirit and purpose of the provisions of law. The FAA has unfortunately also concurred with the view of the PIO while adjudicating the appeal. He should have carefully gone through the provisions of sections 5 and 6 as this was not the case of transfer under section 6 but it was an issue where section 5 was in operation. He should have allowed the first appeal.

Having disposed of this legal objection of the learned counsel, the Commission would like to deal with the other grounds of appeal. In other grounds of appeal, the appellant has submitted that the respondent PIO has "intentionally, deliberately and malafidely denied the information". This ground of appeal has not been substantiated by production of any evidence to prove that there was an intentional and deliberate attempt to deny the information. The PIO has submitted before this Commission that in this case the information in RTI application is spread over number of points and information on only one point i.e with regard to action taken report was existing with the PIO which has been provided and remaining information was with other officers who have been duly designated as PIO(s) of their respective administrative units. Upholding the PIO's contention, the fact remains that other PIO(s) to whom the maximum information pertained have not adhered to the time schedule laid down in section 5 r/w section 7 of the J&K State RTI Act, 2009. They were under legal obligation to dispose of appellant's application within 30 days from

..3..

the receipt of PIO's order. But they have not done that. The PIO had in his wisdom transferred application on 9.4.2014 to following PIO(s):-

1. PIO, Directorate of School Education, Jammu
2. PIO, Chief Education Officer's office, Ramban
3. PIO, Zonal Education Officer, Batote
4. Headmaster (PIO), High School Sumber (Ramban)

They had to take action latest by 8.5.2014. But till this date, they have not communicated anything to the appellant with the result appellant had to approach this Commission with second appeal. The Commission would once again reiterate the basic spirit and purpose of the RTI Act which is to ensure transparency and accountability in the working of every public authority by providing information to the information seekers as expeditiously as possible but not later than 30 days i.e in any case information has to be provided within 30 days otherwise there are penal provisions which may be attracted against the defaulting PIO(s). The Commission is further pained to observe that inspite of the law being enforced in the State for more than last five years, the public authorities are still in the archaic frame of mind of passing the buck. This is a case of a class III elderly retired person who is in 70th year of his age and has to move like a rolling stone from one authority to another for getting his legal dues. After considering all these facts, the Commission has directed the PIO in the office of School Education Department to collect and collate the information if existing on the record and provide the same to the information seeker or pass a speaking order denying the request after giving reasons for the same. Both the parties have agreed that the information whatever available will be given to the information seeker within a maximum period of 30 days from the pronouncement of

..4..

this order. The appellant and his learned counsel are also advised to attend the PIO's office if required to settle the issue.

Sd/-

(G.R. Sufi)

Chief Information Commissioner

No: SIC/CO/SA/219/2014

Dt:

Copy to:-

1. First Appellate Authority, School Education Department, Civil Sectt. Jammu
2. Public Information Officer, School Education Deptt. Civil Sectt. Jammu
3. Shri Bishan Singh, S/o Sh. Ganesha, R/o Village Sumber Harga A/P Danota, P/o Lander Teh/District Udhampur.
4. Private Secretary to Chief Information Commissioner
5. Guard file.

(G.Q. Bhat)

Registrar

State Information Commission