



J&K State Chief Information Commissioner  
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File No. SIC/CO/SA/215 /2014/  
**Decision No. SIC/CO/SA/215 /2014/718**

**Title: Shri Ajat Jamwal**

**V/S**

**PIO / FAA, State Vigilance Organization, J&K.**

**Jammu:**  
**20-01-2015**

This is a 2<sup>nd</sup> appeal filed by Shri Ajat Jamwal, a resident of the State against PIO/FAA, State Vigilance Organization, J&K for not providing information to him. Shri R.K.Chalotra, SSP Vigilance Organization, Jammu, Mr. Gulshan Ahmad Kaloo, DDP-cum-PIO, Vigilance Organization, J&K and the appellant along with his counsel attended the Commission.

Brief facts of the case are that the appellant filed an RTI application before PIO, State Vigilance Organization, J&K on 13-09-2014, sent through post, which claimed to be received by PIO on 08-10-2014 wherein following information was sought;

1. Status Report of Vigilance Organization inquiry in Jagti Township constructed for Kashmiri Migrants, case with Comments of SSP Vigilance Department.
2. What action has been taken against the accused in the case and whether chargesheet has been filed in the Court of Law. If not, why?
3. Whether it is a fact that then Lake and Water Ways Authority Chairman Wajahat Habibullah was dropped from the FIR in favour of LAWDA case and not chargesheeted, if yes, what was the reason for dropping his name from the FIR.
4. Provide copy of the FIR and chargesheet in LAWDA case. Status Report.

The PIO has passed an order on 30-10-2014, which is within time as prescribed under the Act. With regard to information listed in point 1 & 2 of the RTI application, information seeker was informed by the PIO that a Case FIR NO. 03/2012 P/S VOJ was registered in the matter and has been concluded as not proved. However, the final report has not been yet submitted before the Hon'ble Trial Court. Similarly, information on points 3-4 was also given. Not being satisfied of the order of PIO, appellant preferred first appeal before FAA, J&K Vigilance Organization on 16-10-2014, claimed to be received by the office of FAA on 27-10-2014. The FAA held that appeal was premature and hence disposed of the appeal without any direction to the PIO for providing information. The appellant has stated before the Commission that as RTI application was filed on 13-09-2014 and till 16-10-2014, there was no response received from the PIO, therefore, the appeal filed before FAA was not premature because he filed appeal immediately after expiry of 30 days of period within which the PIO had to respond his RTI application. Secondly, the FAA has dismissed appeal of the appellant without hearing the appellant. Therefore, appellant submitted before the Commission to pass direction for providing of information to him.

The Commission has gone through the facts of the case and the record produced during the course of hearing.

The FAA should have heard the appellant before disposing of the appeal. The FAA submitted that first appeal was not maintainable, however, Commission does not find any legal merit in their argument. As per Section 16(1) of J&K RTI Act, 2009, the appellant can file appeal even before receiving an order from the PIO, if the outer time limit of 30 days for passing order by the PIO had elapsed. Appellant has also been provided with right of filing first appeal before First Appellate Authority if he receives order of the PIO but is aggrieved of the order. The RTI application was sent by post on 06-09-2014, therefore, decision of the PIO became due latest by 8<sup>th</sup> to 10<sup>th</sup> October, 2014. However, the PIO informed the Commission that this was the period when Srinagar faced a massive flood and even offices were closed. The Commission accepts

this submission. However, the appellant was having a reasonable belief that his RTI application was received by the PIO and was accordingly expecting a response within statutory period of time. Even if FAA's arguments are accepted that the appeal was premature, the appellant should have been given opportunity of being heard before disposing the first appeal. The FAA is therefore advised that in future he should always provide an opportunity of being heard to the appellant before disposing an appeal.

The Commission has gone through the relevant records and has found that PIO has given information in respect of point d,e & f contained in the RTI application. However, with regard to information sought at point b & c of RTI application, the reply of the PIO is partially given. Only the information that final report in the matter of this high profile case pertaining to construction of Jagti Township for the Migrants is not complete is sustained. The entire record was produced before the Commission for Commission's satisfaction and Commission found that final report had not actually been submitted to the Trial Court. Hence, PIO has rightly not yet provided information to the information seeker because information is yet incomplete. Thus PIO's submission with regard to incompleteness of the final report is upheld. The PIO's attention is however, invited to Section 7 of J&K RTI Act, 2009 which has provided an outer limit to provide information and the outer limit is 30 days of the receipt of the RTI application, otherwise as per Act, every PIO is obliged under this law to pass an order as expeditiously as possible. Having in view this legal requirement and having found by the Commission that the officers who were connected with the investigation process like Investigating Officer and SSP, Vigilance, Jammu have by and large gone with the investigation process in reasonable time, the Commission found that there is now not much left in filing final report before the Competent Court. The Commission was assured by the FAA and PIO during the hearing that final report will be submitted to the Hon'ble Court within 30 days. The Commission therefore directs that once the report is submitted before the Competent Court and court accepts the same, the information be disclosed within a weeks' time because by submitting the report to the Competent

Court, the report becomes public and there is no justification to take further time by PIO.

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

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

Copy to the:-

1. First Appellate Authority, State Vigilance Organization, J&K, Jammu.
2. Public Information Officer, State Vigilance Organization, J&K, Jammu.
3. Shri Ajat Jamwal R/o 253-A, Rehari Mohalla, Jammu-180005 (Appellant).
4. Pvt. Secretary to HCIC.
5. Guard File.

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