



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

File No: SIC/CO/SA/212/2014
Decision No: SIC/CO/SA/212/2014/720

Title:- Mohammad Ayub Ayan V/s PIO Directorate of Technical Education J&K

Jammu
08.01.2015

This is a second appeal filed by Shri Mohammad Ayub Ayan, a resident of the state in this Commission on 11.11.2014. Hearing was fixed on 8.1.2014. Shri parvaiz Iqbal Khateeb, Director-cum-FAA, Shri Mohammad Shafi Bhat, Joint Director-cum-PIO, Directorate of Technical Education attended. Appellant did not attend despite issue of notice from this Commission.

Brief grounds of the appeal are that the appellant filed an RTI application before the PIO Directorate of Technical Education on 12.5.2014 received by the PIO on 16.5.2014 seeking certain information as per his RTI application. PIO had to pass an order as expeditiously as possible but not later 30 days. But since the required information was not available with the PIO and he had to collect the same from other quarters of Directorate of Technical Education, he invoked Section 6(3) of the J&K State RTI Act, 2009 vide his letter under No: DTE/101/RTI/161/132-36 dated: 23.05.2014 and forwarded the copy of RTI application to the Directorate requesting

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them to provide the information pertaining to their sections to RTI section of the Directorate well in time for onward transmission of information to the concerned applicant. Having not received the information within the stipulated time, the information seeker filed first appeal before the FAA on 15.7.2014. But during the hearing, the FAA denied of having received the first appeal. Therefore, he could not adjudicate the appeal. In the absence of the appellant, it could not be ascertained whether the appellant had served the first appeal before the FAA or not. Onus was on the appellant to prove that first appeal was delivered to the FAA. But since he preferred to remain absent during the hearing, the fact could not be ascertained. It is worth to mention here that the PIO had vide his letter dated: 20.6.2014 informed the appellant that information has been collected from the concerned quarters and requested the appellant to remit an amount of Rupees Fifty only on account of copying charges. But the appellant did not pay any heed to the request of the PIO and remained silent. In good faith, PIO again on 02.07.2014 reminded the appellant to remit the said amount, though it was not necessary for the PIO to remind the information seeker time and again. The FAA also intimated to this Commission vide his letter No: DTE/101/RTI/161/221-222 dated: 24.11.2014, after the date of filing of second appeal by the appellant on 11.11.2014, that since the appellant has not paid the charges as requisitioned by the PIO and was informed by the PIO to do the needful. The FAA has also submitted before this Commission that the statement of the appellant that he has approached before the FAA is false and baseless. PIO vide his letter dated: 15.12.2014 informed the Commission that required information has been forwarded to the applicant on 27.11.2014.

Commission is of the considered opinion that the information seeker filed RTI application before the PIO and wrongly submitted that he had filed the first appeal

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which the Director-cum-FAA Technical Education has also refuted before this Commission. The information seeker was served notices of hearing on 03.12.2014 and 08.01.2015 but he did not appear before the Commission during these two hearings. He failed to put his view point and provide any evidence or assistance to the Commission. Even though, the PIO Directorate of Technical Education has furnished the information to him.

In view of the above findings, Commission does not find any reason to pass any directions in this case to the PIO and FAA of Directorate of Technical Education J&K. The information seeker is advised to remain present during the hearings, as and when he is asked to do so in order to lead evidence in support of grounds of appeal.

It is also found that the appellant namely Shri Mohammad Ayub Ayan has been using his right to information under this Act since the introduction of this Act in the State and establishment of the Commission. He has filed scores of applications before the numerous public authorities and has received information against almost all the applications. The information taken from the government records runs in hundreds and thousands of pages. He has been particularly concentrating for this purpose in his native districts of Ramban and Reasi and has also filed number of applications with Revenue, Estates, Education and other departments in other districts also. He has also approached the Commission in number of appeals and complaints which have been disposed of by the Commission by ordering for the disclosure of the information. His attention was several times invited to the preamble of the J&K State RTI Act, 2009 which lays down the purpose and rationale of the right to information. The essence and rationale is to “secure access to the information under the public authorities, in order to promote transparency and accountability in the working of every public authority”. Thus the exercise of this right is not a free will or a hobby. It

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places a heavy responsibility on the user of the RTI Act to ensure that the information is used only for this purpose and nothing else. Providing information to an information seeker requires the time and energy of public authorities. It definitely would be a issue of giving serious thought and consideration by the Commission to a situation where a particular resident of the State is keeping public authorities busy in providing him information on almost all the subjects on earth the user of such information at times would definitely lead to unearthing of serious irregularities in the working of public authorities which definitely must attract the attention of other anti graft government agencies. If such serious irregularities are seen by any citizen but are not reported to the competent authorities for conducting necessary investigations, it would be justifiable to start investigation under what circumstances the information seeker who is in possession of loads and loads of information running into hundreds and thousands of pages involving huge expenditure of government machinery is not reporting such irregularities to competent authorities for bringing accountability in the working of the public authorities which is the essence of the RTI Act. The Commission had number of times in its various orders required the appellant to give the Commission a brief of the user of information. However, till date nothing has been submitted to the Commission. The Commission is in the possession of information to show that not only is Mr. Ayan in his personal capacity using the RTI Act extensively for nearly last four years, his spouse and his close blood relations have also started using this Act. The Commission is duty bound to ensure that there is no misuse of legal process which defeats the very purpose of J&K State RTI Act, 2009. Therefore, the Commission would once again require the appellant to give the details of various kinds of information received by him from various government and semi government departments, agencies and institutions and also to report whether he

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has made any reference to State Accountability Commission, State Vigilance Commission and State Vigilance Organization or any other competent authority. This information must reach to this Commission within ten days from the receipt of this order. If no information is received, the Commission would take further action in this regard keeping in view the Hon'bl Madras High Court decision in a judgement titled P. Jayasankar v/s Chief Secretary of Tamil Nadu in WP Nos: 3776, 3777 and 3778 of 2013.

Second appeal is accordingly disposed of.

Sd/-
(G.R. Sufi)

Chief Information Commissioner

Copy to:-

1. Director-cum-First Appellate Authority, Technical Education Department, Polytechnic Premises, Vikram Chowk Jammu.
2. Public Information Officer, Directorate of Technical Education, Jammu
3. Shri Mohammad Ayub Ayan, S/o Shri Abdul Ahad Hakmat, R/o Mahore, District Reasi.
4. Private Secretary to Chief Information Commissioner
5. Guard file.

(G.Q. Bhat)
Registrar

State Information Commission