



Jammu and Kashmir State information Commission
(Constituted under The Right to Information Act, 2009)
Wazarat Road, Near DC office Jammu, 0191-2520947, 2520937
Old Assembly Complex, Srinagar. 0194-2484269, 2484262
www.jksic.nic.in

File No: SIC/CO/SA/24/2013
Decision No: SIC/CO/SA/24/2013/430

Title:- Santosh Sharma, Ex-Headmaster, R/o 28 C/D, Gandhi Nagar, Jammu

V/s

School Education Department, Civil Secretariat, Jammu

Jammu
02.04.2013

This is a second appeal filed by Smt. Santosh Sharma, a resident of the State against the order of PIO for not providing information as sought by the Appellant vide her RTI application dated: 11.9.2012 received by the PIO on 12.09.2012. Vide RTI application, the appellant had sought copy of communication under No: Edu/Legal/J/2002 dated: 16.07.2007 and follow up action. PIO forwarded the copy of RTI application to the PIO Directorate of School Education Jammu vides his letter No: Edu/Legal/J/644/2012 dated: 19.09.2012 asking for providing the information to the Information Seeker urgently. The PIO, Directorate of School Education had to pass an order within 30 days but he passed the order on 17.11.2012 which is late by one month. The PIO at the time of passing order was Shri H.R. Pukhroo, Joint Director. Therefore, he is required to explain why penalty under Section 17 of the State RTI Act may not be imposed for delay in passing the order by complete one month. His reply, if any, must reach to this Commission within 15 days from the receipt of this order. The present PIO Shri Ajit Kumar is directed to serve a copy of this order to outgoing PIO Shri Pukhroo,

The order of PIO Directorate of School Education dated: 17.11.2012 is incomplete in the sense that it does not inform the appellant about her right to appeal. He only informed the appellant that her case file is not traceable as per the office record hence no follow up action can be communicated. The

complainant preferred first appeal before First Appellate Authority vide her appeal dated: 02.12.2012 stating therein that the information was available with the department which is being denied to her. First Appellate Authority passed order on 13.02.2013 rejecting the Appellant's first appeal on the plea that no such communication was on record. The Commission has gone through this order. The order is defective in the sense that opportunity of being heard has not been provided to the information seeker. The First Appellate Authority under the scheme of State RTI Act is a quasi-judicial authority and he has to adjudicate the disputes and issues which arise between appellant and the PIO. Adjudication means of hearing both the parties and then deciding a issue. Similarly, the First Appellate Authority has not kept in view the provisions of the Section 16 (3) of the State RTI Act vide which he was required to refer the case to the Commission if he found that there was a default on the part of the PIO to pass order on time. Under the circumstances, the Commissions considers it appropriate to restore back the first appeal to the First Appellate Authority with the direction to adjudicate the appeal after hearing both the parties i.e the PIO and the appellant and decide the appeal. The appellant may be asked to lead evidence that the communication which she is seeking under State RTI Act was really in existence. She may also be given an opportunity to ensure whether she has correctly communicated the reference number and date of the communication she is wanting. The order be passed within 30 days from the receipt of this order and the First Appellate Authority should intimate the compliance of this order to this Commission.

Sd/-

(G.R. Sufi)

J&K State Chief Information Commissioner

Copy to:-

1. Additional Secretary-cum-First Appellate Authority, School Education Department, Civil Secretariat, Jammu.
2. Public Information Officer-cum-Under Secretary, School Education Department, Civil Secretariat, Jammu.
3. Smt. Santosh Sharma, Ex-Headmaster, R/o 28 C/D, Gandhi Nagar, Jammu
4. Record file.

(Mohammad Syed Shah)

Registrar

J&K State Information Commission