



Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

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www.jksic.nic.in

File No: SIC/CO/Comp/14/2013

Decision No: SIC/CO/Comp/14/2013/444

Title:- Imtiyaz Ahmed Rather S/o Mohd. Khalil Rather
R/o Bendoo, Kokernag

V/s

PIO J&K Board of School Education Srinagar

Srinagar
10.5.2013

This is a complaint filed by Shri Imtiyaz Ahmed Rather of Bindoo Kokernag a resident of the State filed in this Commission on 7.3.2013 against the PIO of J&K Board of School Education Srinagar. The brief facts of this complaint are as under:-

That the complainant filed an RTI application before the Chairman J&K Board of School Education dated: 19.10.2011 for seeking the following information:-

“ Give him a report about the process of his application dated: 13.10.2009 received in the office on 22.10.2009 vide No: 838/P/S/C. He also wanted photocopy of his above file”.

The order on the application of applicant was to be passed on or before 30 days from the receipt of application i.e maximum by 18th of November 2011. The order has not been passed so far. The PIO who attended this Commission today has, however, produced certain copies of the communication which were exchanged between various senior officers i.e Special Secretary, Assistant Secretary etc. and no formal order has been passed as provided under Section 7 of the State RTI Act. The PIO states that as the application was moved before the Chairman of the Board, therefore, it took some time to forward the same to the PIO. This issue has been dealt with under Section 5 and 6 of the State RTI Act wherein it is compulsory on any officer to whom application is addressed to forward the said application within 5 days to the concerned PIO. Therefore, the Chairman of the Board should have forwarded the application to the concerned PIO. The PIO has brought to this Commission's notice copy of his order

under No: I&FO/KV(B)/11 dated: 9.12.2011 wherein requisite information is stated to have been enclosed. The Commission has gone through this correspondence and seen that these are copies of letters received from Deputy Secretary Administration Central and Assistant Secretary Administration Central which deals with some earlier grievances of the complainant. The Commission would like to make it clear that in the RTI application the complainant wanted status report of his application referred above and a photocopy of his file under above said number. This has not been provided to him. Hence no order at all has been passed. Therefore, Shri Rauf Ahmed Joint Secretary Board of School Education-cum-PIO is directed to explain why penalty may not be imposed on him for not passing the order under Section 7 within the time provided under the said provisions of law. His explanation if any, must reach to this Commission within 20 days from the receipt of this order.

Strictly following the procedure laid down in the Act the complainant should have followed the procedure of filing first appeal. At the time of filing complaint in this Commission he did not file any such first appeal but being advised by the Commission to file the first appeal he has filed first appeal before the First Appellate Authority who happens to be the Secretary of the J&K Board of School Education. This appeal is still pending. The First Appellate Authority's attention is invited to provisions of Section 16 of the State RTI Act which makes it statutorily binding on the First Appellate Authority to dispose of first appeal within 30 days from the receipt of appeal which time is extendable to further 15 days after recording the reasons. The First Appellate Authority should understand that the Government has cast a duty on him to act as First Appellate Authority under the State RTI Act and if he fails to discharge his statutory duty, Commission would be constrained to proceed under various laws in operation for failing to act as a public authority.

Sd/-

(G.R. Sufi)

J&K State Chief Information Commissioner

Copy to:-

1. First Appellate Authority, J&K Board of School Education, Srinagar
2. PIO J&K Board of School Education, Srinagar
3. Shri Imtiyaz Ahmed Rather S/o Mohammad Khalil Rather R/o Bindoo, Kokernag
4. Guard File

(Mohammad Syed Shah)

Registrar

J&K State Information Commission

Srinagar