



Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

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File No.SIC/CO/SA/28/2013

Decision No.SIC/CO/SA/28/2013/450

Title:- Shri Upender Krishan Koul R/o H.No.46-A Patoli Mangotrian, Jammu.

V/s

1. First Appellate Authority,
Crime Headquarters,
J&K, Srinagar.
2. Public Information Officer,
Crime Headquarters,
J&K, Srinagar.

Srinagar

16-05-2013

This is a 2nd appeal filed by Shri Upender Krishan Koul, a resident of the State against alleged inaction of PIO and FAA to pass order on the application filed under section 6 before the PIO on 14-12-2012 seeking certain information. Mr. Mohd Saleem, Senior Prosecution Officer-Cum-PIO, Crime Headquarter J&K attended. Shri Upender Krishan Koul (appellant) was provided an opportunity vide this commission's notice under No.SIC/CO/SA/28/2013/1704-06 dated 16-04-2013 to attend this commission and help the commission in arriving at correct decision. However, he did not attend.

The brief facts of the appeal are that the appellant had filed an RTI application before PIO on 14-12-2012 for seeking certain information. The PIO

has submitted proof in the shape of copy of order passed by him vide No.CHQ/RI/44/2012/12249 dated 18-12-2012. He further confirmed before the commission that copy of this order was sent to the information seeker by post. The information seeker insists vide his 2nd appeal that he did not receive the copy of said order within stipulated period of time; he filed the first appeal before Senior Superintendent of Police, Crime Branch which was received by the Senior Superintendent of Police, Crime Jammu office on 16-1-2013. It is further submitted that the FAA did not adjudicate his appeal hence 2nd appeal before this commission. The commission has perused the order of PIO which has been passed much ahead of statutory outer period of 30 days and reportedly has been sent by post which has not been rebutted by the information seeker. It is further seen from the order of the PIO that complying with provisions of section 7(8) the PIO informed the appellant that in case he want to file the appeal he should file appeal before Staff Officer of I.G Crime within 30 days. Therefore, communication was quite clear to the appellant. The appellant has admittedly addressed first appeal to S.S.P Crime Jammu.

The appellant is aggrieved with the fact that he did not receive the PIO's order which the PIO claim to have been sent by post. Nothing has been brought before this commission to prove that PIO did not pass an order on the date and did not send the same by post. The PIO has also informed this commission that immediately after the notice from the Commission was received intimating about the 2nd appeal he sent another copy of order by ordinary post on 28-04-2013. The information seeker was contacted on telephone No.9797497176 and he insisted that he has not received the said communication so far though PIO has produced dispatch register before this commission to confirm his statement. The commission could not reject the contention of the PIO. It seems that it has been a postal delay. The PIO accordingly now is directed to ensure that copy of order is either send by registered post or through runner and get proper acknowledgement from the appellant.

The PIO Mr. Mohd Saleem has brought commission's attention to the "wild allegations" made by the appellant in his 2nd appeal at para 6 to the fact that after lapse of 50 days a messenger from Crime Headquarters J&K, Jammu came to his house and asked for Photostat copy of original RTI application so that

information may be furnished as original application was missing in the office of Crime Headquarters.” The PIO has strongly denied this allegation by stating that his office is in receipt of original application of the appellant which has been diarize as under:-

Crime Headquarters, J&K

Receipt No.10272

Dated 14-12-2012

Encl _____

Section Clt.

He has further shown this commission a receipt of original copy of postal order of Rs.10/- The commission has found both these documents on record of PIO.

The Commission enquired from the appellant on telephone No.9797497176 whether he could identify the said alleged person who visited his house for obtaining copy of original application. He failed to do such identification. The PIO insists before the commission that commission should take necessary action against the appellant for making wild allegations against a public servant. There is presently nothing in the Act and rules of the commission which empower the commission to take such action. The PIO is a public servant and there are enough laws under which he can himself initiate any action against the alleged unfounded allegations leveled against the public servant.

The appeal is accordingly disposed of.

Sd/-

G.R.Sufi,

Chief Information Commissioner, J&K.

Copy to the:-

1. First Appellate Authority, Crime Headquarters, J&K, Srinagar.
2. Public Information Officer, Crime Headquarters, J&K, Srinagar.
3. Shri Upender Krishan Koul, R/o H.No.46-A Patoli Mangotrian, Jammu.
4. Guard file.

(Mohammad Syed Shah)

Registrar,

J&K State Information Commission at Srinagar.