



Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

Old Assembly Complex, Srinagar, Fax No. 0194-2484269 , 2484262
Wazarat Road Near DC Office, Jammu, Fax No. 0191-2520947, 2520937

www.jksic.nic.in

File No.SIC/CO/SA/33/2013

Decision No.SIC/CO/SA/33/2013/451

Title:- Shri Pran Nath R/o H.No.322/1, Vikas Nagar Sarwal, Jammu.
V/s

1. First Appellate Authority,
O/o Resident Commissioner,
Prithvi Raj, Road, New Delhi.
2. Public Information Officer,
O/o Resident Commissioner,
Prithvi Raj, Road, New Delhi.

Srinagar
20-05-2013

This is a 2nd appeal filed by Shri Pran Nath, a resident of the State before this Commission on 04-04-2013. Shri Pran Nath (appellant) attended in person and Addl. Resident Commissioner/PIO in the Office of Resident Commission, New Delhi did not attend. The brief facts of the appeal are that the appellant filed an RTI application before the Resident Commissioner's Office, New Delhi on 16-1-2013. The information so sought is givable and was to be provided to the information seeker as expeditiously as possible, and in any case within 30 days from the date receipt of the request, thus the reply should have

been given to the information seeker by 15-2-2013 and in view of section 7 this order was to be passed by the PIO. The appellant states that he waited till 18-2-2013 because by the time he had not received any order and therefore, filed 2nd appeal before the FAA on 18-2-2013 who has responded to his first appeal by informing the appellant that PIO has already replied to his application dated 11-3-2013 and a copy of PIO order was attached. The appellant has not been satisfied with this order filed 2nd appeal before this Commission as narrated above. In this appeal he has pleaded that first appeal order was also not passed within time and he was not given the information which was required in his RTI application. The commission has heard the appellant and also gone through the written rejoinder given by the PIO vide No.KRC/Estt-RTI/88 dated 17-05-2013. There are many anomalies in the order passed by the APIO on 11-3-2013. As per provisions of Section 7 of the State RTI Act, it is a PIO who has to pass an order and not APIO. APIO's job is only to receive the applications and forward the same to the PIO and give any other assistance. APIO's job is prescribed under section 5(2) of the Act which determined the role of APIO. It will be appropriate to reproduce the relevant provision of law with regard to appointment of APIO and his functioning.

“Every public authority shall designate an officer, within one hundred days of the commencement of the Act, at each sub-divisional level or other sub-district level as an Assistant Public Information Officer to receive the applications for information or appeals under the Act for forwarding the same forthwith to the Public Information Officer or senior officer specified under sub-section (1) of the section 16 or the State Information Commission, as the case may be.”

Hence, the order so passed by APIO being ab initio bad in law and hence is vacated and set aside. Similarly, the order passed by the FAA has also not been strictly in accordance with law, because he has not adjudicated on the issue raised by the appellant. He was under legal obligation to see if the information given to the information seeker is in accordance with his application or not and before adjudicating first appeal he was required to hear the appellant also. The

commission is agreed with the appellant that no order has been passed; therefore, PIO is required to explain reasons why order as stipulated under section 7 was not passed within outer limit of 30 days. His reply must reach to this commission within 30 days so that decision would be taken as required under the provisions of section 17 of the State RTI Act. As directed above the PIO must pass a fresh order on the application of the appellant within maximum period of 15 days on receipt of this order.

Sd/-
G.R.Sufi,
Chief Information Commissioner,
J&K.

Copy to the:-

1. First Appellate Authority, O/o Resident Commissioner, Prithvi Raj Road, New Delhi.
2. Public Information Officer, O/o Resident Commissioner, Prithvi Raj Road, New Delhi.
3. Shri Pran Nath R/o H. No.322/1, Vikas Nagar Sarwal Jammu.
4. Guard File.

(Mohammad Syed Shah)
Registrar,
J&K State Information Commission at Srinagar.