



Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

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File No: SIC/CO/SA/29/2013
Decision No: SIC/CO/SA/29/2013/452

Title:- Subash Chander Mansotra
V/s
PIO High Court Jammu

Jammu
23.5.2013

This is a second appeal filed by Shri Subash Chander Mansotra, a resident of the state before this Commission on 1.4.2013. Shri C.L Sharma, Joint Registrar attended on behalf of Shri R.S. Jain District and Sessions Judge-cum-PIO who could not attend because of being pre-occupied with his official functions. The appellant also attended in person and explained the grounds of appeal. The brief facts of this appeal are that the appellant filed an RTI application before PIO of the Hon'ble J&K High Court on 14.9.2012 which was received by the PIO of Hon'ble J&K High Court on 18.9.2012. As per the provisions of the Section 7 of the State RTI Act 2009, the PIO had to pass an order as expeditiously as possible but not later than 30 days. Similarly, as per the provisions of Section 17 of the State RTI Act penalty proceedings have to be initiated if the order is not passed within time without advancing any reasonable cause. Therefore, said action is initiated and PIO is required to explain the reasons for not passing order within time as stipulated under the State RTI Act. Reply, if any, must reach this Commission within one month from the receipt of this order. The appellant had asked the following information:-

“The appellant sought information with regard to final award roll/result sheet pertaining to the Higher Judicial Service Examination,1998”.

Prima facie this information is givable as per the provisions of the Act. However, the PIO has informed the information seeker that "he is not in a position to provide/disclose marks position secured by him because award rolls/result sheets pertaining to High Judicial Service Examination 1998 is not available in the office. However, efforts are being made by this office to locate the same from the available records". The appellant being aggrieved with this finding preferred first appeal before the First Appellate Authority i.e Registrar General of Hon'ble High Court of J&K at Jammu which was submitted on 17.12.2012. The First Appellate Authority has passed the order on 31.1.2013 which is within the time prescribed under the Act. The First Appellate Authority concurred with the PIOs finding that as the record is not available, therefore, no information is available, hence not given. The appellant in accordance with the right conferred on him under Section 16 of the State RTI Act filed second appeal as mentioned above. The main ground of the appeal of the appellant is that it does not stand to common sense that the Hon'ble High Court " which is a repository of records expresses its inability to provide the requisite information as sought by the appellant". The appellant being a senior advocate has deposed before this Commission that the relevant record is lying in the custody of Shri Tara Chand Sharma, counsel of the Hon'ble High Court in the Hon'ble Supreme Court Shri Tara Chand Sharma. The record was sent in connection with Civil Appeal No: 1393 of 2002, 1394 of 2002 and 1395 of 2002 titled Subash Chander Mansotra v/s High Court of J&K and others. Shri C.L Sharma who represented the PIO could not rebut the deposition made before the Commission by the appellant. The Commission, therefore, directs the PIO to take immediate necessary steps to arrange photocopies of the record from the counsel Shri Tara Chand Sharma provided there is no express prohibition by the Hon'ble Supreme Court against the making of copies from the record and provide the information to the information seeker within 30 days from the receipt of this order.

Sd/-

(G.R. Sufi)

J&K State Chief Information Commissioner

Copy to:-

1. Public Information Officer, J&K High Court Jammu.
2. Shri Subash Chander Mansotra, Advocate Bar Room No:02, Janipur, District Court Complex, Jammu
3. Guard file

(Mohammad Syed Shah)

Registrar

J&K State Information Commission
Srinagar