



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/36/2013

Decision No: SIC/CO/SA/36/2013/462

Title:- Ranjeet Kotwal R/o 227-Extension
Janipur Housing Colony, Jammu
Through Advocate B.R. Manhas

V/s

PIO Higher Education Department

Srinagar
18.06.2013

This is a second appeal filed by Shri Ranjeet Kotwal , a resident of the State through his Advocate Shri B.R. Manhas. FAA and PIO Higher Education Department attended the hearing which was fixed by the Registry of this Commission vide its Notice No: SIC/CO/SA/36/2013-1247-49 dated: 13.6.2013. The Appellant did not attend.

1. The brief grounds of the appeal are that the appellant filed an RTI application before PIO which was received by the PIO on 22.08.2012 seeking certain information as listed in his RTI application. This application was disposed of by the Deputy Secretary-cum-PIO of Higher Education Department on 18.9.2012 intimating the appellant to visit the UGC Website and also go through the Government Order No: 252-HE of 2012 dated: 30.5.2012. The appellant not being satisfied with this order preferred first appeal before the FAA which was received by FAA on 16.10.2012. The FAA before disposing of the appeal sought the attendance of the appellant vide her Notice dated: 21.11.2012 and passed an order on 14.1.2013 and disposed of the first appeal vide her Order dated: 14.1.2013 which ordinarily should have been

disposed of within a maximum period of 45 days from the date of its receipt. The FAA is advised to adhere to the time limit laid down in the Act with regard to the disposal of the first appeal. The FAA while concurring with the PIO that information was already provided to the appellant disposed of the second appeal. The appellant not being satisfied with this order preferred second appeal before this Commission complaining therein that instead of providing information by the PIO the appellant was advised to visit the UGC website and also to go through the Government Order referred above and the information was thus not provided in the format as sought by the appellant. In the second appeal it has been stated that the FAA has also not provided information in the form as sought by the appellant and has thus deliberately and intentionally with-held the information.

2. The Commission has heard the FAA and PIO but did not had the benefit of hearing of the appellant who preferred not to attend inspite of a clear notice to him. Orders passed by the FAA and PIO have been perused. The PIO has referred to website of UGC and as per the version of PIO, website provides the same information which the appellant had asked for. As per Section 4 of the State RTI Act the public authorities are obliged to make a suo-moto and voluntary disclosure with regard to information so held by them and as listed in Section 4 of the Act. If the information on the website so disclosed satisfy the queries of an information seeker, the PIO cannot again be compelled to provide the same information. PIO has rightly advised the appellant to down load the information. The rationale and purpose of the RTI Act is that all kinds of information excepting exempted information under Sections 8 and 9 should be in public domain and in the modern age of technology and internet one of the best methods of putting the information in public domain is uploading information on website of any public authority. The appellant has failed to establish that the information so uploaded on website was not in accordance with the requirement of his query made in his RTI application. The contention of the appellant that he wanted information with regard to the retrospective or otherwise effect of Government Order No: 252-HE of 2012 dated: 30.5.2012 is not found to be in accordance with the provisions of State RTI Act. The Commission has gone through the said Government Order and has found that it nowhere clearly establishes or mentions whether the said Government Order was issued with retrospective or prospective effect. The Government Order is in public domain in the shape of uploading it on departmental website. Therefore, PIO has rightly asked the appellant to down load it. Secondly as the Government Order does not mention since when it is

applicable therefore, this information is not in existence. Under the RTI Act only that information can be accessed by any resident of the State which is maintained and is in existence in the form as provided in the provisions of Section 2(d). Therefore, the Commission cannot direct disclosure of any information which is not in existence and thus not found in any office records. The RTI Act nowhere compels the PIO or the FAA to create or bring to life any information or any material which did not exist at the time of filing of RTI application by any resident of the State. It has been found by the Commission that in the subsequent proceedings before the Hon'ble High Court in response to a query by the Hon'ble Court, the respondents have informed the Court through an affidavit that this order has prospective effect. At the most, the Commission can advise the PIO to provide a copy of this affidavit to the information seeker. It is further noted that this affidavit is dated January,2013 and is, therefore, much after the date when RTI application was originally made on 16.8.2012.

3. As the PIO and FAA have passed orders in good faith, there is no evidence before the Commission to accept the allegations of the appellant that the FAA or the PIO maliciously and intentionally concealed the information. The Act gives an protection with regard to actions taken by the public authorities in good faith. All the grounds of appeal are hereby rejected and the appeal is accordingly disposed of.

Sd/-

(G.R. Sufi)

J&K State Chief Information Commissioner

Copy to:-

1. First Appellate Authority, Higher Education Department, Civil Secretariat, Srinagar
2. Public Information Officer, Higher Education Department, Civil Secretariat, Srinagar
3. Shri Ranjeet Kotwal, R/o 227 Extension, Janipur Housing Colony, Jammu
4. Private Secretary to Chief Information Commissioner.
5. Guard File

(Mohammad Syed Shah)

Registrar

J&K State Information Commission, Srinagar