



J&K State Chief Information Commissioner
Old Assembly Complex, Srinagar. Fax ;0194-2484268,2484269
Wazarat Road, Jammu. Fax No: 0191-2520947, 2520927

File No: SIC/CO/SA/95/2012
Decision No: SIC/CO/SA/95/2012/467

Title:- Gh. Ahmad Zargar R/o Check No. 1,
Dangerpora, B.K. Pora, Chadoora Budgam
V/s
FAA/PIO Social Welfare Department

Srinagar
21.06.2013

This is a complaint filed by Shri G.A Zargar before this Commission on 20.11.2012. To dispose of the complaint, the Registry of this Commission posted the hearing first at Jammu and later on at Srinagar as the complainant did not attend the hearing at Jammu. The Additional Secretary-cum-FAA , Social Welfare Department, Shri G.R. Mir and Shri Arun Kumar PIO attended and defended their actions. The brief facts of the complaint are that “precise and complete information was not provided to the complainant in response to his RTI application received by the PIO on 17.7.2012”. The complainant had later on filed first appeal also on 27.8.2012. The Under Secretary to Government, Social Welfare Department while acknowledging the first appeal had informed the appellant that he was provided the information. The complainant later filed second appeal before this Commission on 18.10.2012 which was disposed of by the Commission vide its Order No: SIC/CO/SA/95/2012/327 dated: 20.11.2012. The Commission after going through the facts of the case had restored back the appeal to FAA because the first appeal was not adjudicated by the FAA in the manner laid down in Section 16 of the State RTI Act. In compliance with the order of the Commission, the FAA disposed of the appeal on 12.12.2012. The appellant was given proper opportunity by the FAA but he did not attend before the Appellate Authority. The only ground of first appeal was that the appellant did not receive the information within

30 days from the date of filing the RTI application. The FAA had observed that part information was given to the information seeker within 18 days of the receipt of application and the remaining information was also provided after nominal delay of 20 days. The delay was caused because the information was to be collected and collated from the field officers of the department. It was also confirmed in the FAA's order that information was again handed over to the appellant by hand. Non being "satisfied" with this order, the complainant filed a complaint in this Commission vide his communication dated: 14.1.2013. In this complaint, the complainant has requested the Commission to "revisit" second appeal decision and take appropriate action under rules. During the last hearing before this Commission on 13.5.2013 the complainant was informed about the correct legal position under State RTI Act with regard to revisiting the decision of the Commission. There is no provision in the State RTI Act which empowers the Commission to revisit its own decision on second appeal. The Commission may only rectify any factual mistake in the order. Secondly, the complainant has tried to make out a case that in his first appeal there were other grounds which have not been adjudicated by the Commission. Thus, it would be appropriate and relevant to reproduce grounds of appeal raised by the appellant in first appeal which are as under:-

"Grounds for appeal (Refer (a) above)

(a) No response received within 30 days of submission of application form".

Even on this issue, therefore, the complaint deserved to be rejected outright. The Commission would like to bring to the notice of the complainant who is a literate person and a retired Government officer of the rank of Under Secretary level that though the Act has provided and conferred a right to information on the citizens of the State, there is a corresponding duty on the residents to ensure that they use their right after ensuring that the exercise of such right is justified under the Act and is not with an intention of engaging the public functionaries in an unnecessary protracted litigation at the cost of doing their job for which they are appointed. No resident or any citizen has been given any right to strain the system without the authority of law. From the records it is seen that the complainant has been in the habit of filing vague RTI application and when he is asked by the Commission or the FAA to attend before them to assist in explaining how the information given by the PIO or the FAA was incorrect or misleading, he brazenly asks the Commission to give him travel (boarding & lodging) to reach Jammu to present his case before the Commission. As already stated above, the complainant is a retired Under Secretary to Government and it is, therefore, reasonably expected that for enjoying the various rights which the constitution has provided to a citizen he cannot burden the State by asking for incentives for pursuing his own litigation or exercise his right. There is no right conferred on him to seek

boarding and lodging expenses for pursuing his rights. After receiving his complaint as mentioned above, he was asked to attend the Commission personally or through his authorized representative to help the Commission at arriving at a correct decision (refer Commission's Registry Notice dated: 7.3.2013). He makes his presence conditional on the demand that he be given DA/TA, boarding and lodging expenses without establishing whether he is entitled to claim such expenses under law for pursuing exercise of his own right. In spite of his open refusal to attend the Commission either personally or through any authorized person, he puts further strain on the Commission by making a unfounded claim that "nothing had been heard from the Commission with regard to his complaint (his letter dated: 4.4.2013 received on 22.4.2013 under Receipt No: 1237 in this Commission) and also his letter dated: 21.2.2013". He seems to be impatient. The complaint filed in this Commission is dated: 14.1.2013 and within a month he starts sending reminders. The Hon'ble Supreme Court in the case of Civil Appeal No: 6454 of 2011 arising out of SLP© No: 7526/2009 in the case of CBSE and another V/s Aditya Bandopadhyay and others has clarified "that RTI Act provides access to all the information that is available and existing. The complainant is advised to go through the Hon'ble Supreme Court observations in the concluding paras of said decision.

2. Before hearing the complainant the FAA had sent the counter reply on the complaint made by the appellant wherein it has been submitted by the FAA that no non-compliance with the Commission's order was made as alleged by the complainant as the information and the orders passed by the FAA were communicated to the complainant vide No: SWC/Estt/RTI/44/2012 dated: 7.12.2012 through registered post.

3. In order to confront the complainant with the counter reply of the FAA, the Commission fixed the hearing on 13.5.2013 vide the Registry Notice dated: 15.4.2013 thus giving sufficient time to the complainant to attend the Commission. Again the complainant failed to attend the Commission. Therefore, on 13th May 2013 the complainant was contacted on phone and informed about his absence in the Commission. He confirmed on phone to have received Commission's Registry's notice dated: 15.4.2013 but to be fair and reasonable with the complainant, the hearing was adjourned for 14th May 2013. The purpose was to hear the complainant in person and to ask him to identify how the information so provided to him by the FAA and PIO was not correct. On 14th he attended and he was confronted with the submissions and counter replies given by the FAA. He was also taken through the provisions of the State RTI Act. Thereafter, he gave in writing that a good portion of information has already been provided to him but there were certain points of information which have not been provided and he requested the Commission that FAA/PIO be directed to provide that information. The FAA and PIO offered to provide him further information if identified. In view of appellant's submissions made in writing, the complaint is disposed of with the directions to the PIO to ensure that the

information sought vide his original RTI application is given to him in accordance with the points of remaining information which the complainant identifies to have not received. These directions be complied within 15 days from the receipt of this order.

Sd/-

(G.R. Sufi)

J&K State Chief Information Commissioner

Copy to:-

1. First Appellate Authority, Social Welfare Department, Civil Secretariat, Srinagar
2. Public Information Officer, Social Welfare Department, Civil Secretariat, Srinagar
3. Shri G.A. Zargar R/o Check No. 1, Dangerpora, B.K. Pora, Chadoora Budgam.
4. Guard file
5. Private Secretary to Chief Information Commissioner

(Mohammad Syed Shah)

Registrar

J&K State Information Commissioner, Srinagar