



J&K State Chief Information Commissioner  
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Wazarat Road, Jammu. Fax No: 0191-2520947, 2520927

File No: SIC/CO/SA/41/2013  
Decision No: SIC/CO/SA/41/2013/472

Title:- Khalid Tufeel R/o LKP Shares  
Opp. Ganta Ghar, Lal Chowk, Srinagar

V/s  
PIO Power Development Department

Srinagar  
01.07.2013

This is a second appeal filed by Shri Khalid Tufeel, a resident of the State against the inaction of FAA of Power Development Department to adjudicate the first appeal filed by the appellant before the Additional Secretary-cum-FAA of Power Dev. Department. The brief grounds of the appeal are that the appellant filed an RTI application on 1.2.2013, which was received by the PIO Power Dev. Department on 8.2.2013, seeking the following information:-

“Agreement executed by State of J&K with NHPC in respect of

1. Dul Hasti Power Project
2. Kishen Ganga Project
3. Nimo Bazgo project
4. Bursar Project
5. Chutak Project
6. Salal Power Project
7. Uri I and II Project
8. Baghliar Project
9. Bairsul Project

10. Sewa Project Kathua with water capacity in each of above projects

11. How much share is State Government getting from it

12. How many agreements had lapsed.”

The PIO in response to this application passed an order on 9.4.2013 as against the due date of 1.3.2013. The delay for passing the order is attributed to the fact that PIO had made a reference and sought assistance from the Managing Director J&K State Power Development Corporation vide Power Dev. Department's letter No: PDD/Gen/14/RTI/2013 dated: 18.2.2013 for providing of information to the information seeker in terms of Section 6 (3). The Managing Director J&K Power Development Corporation responded vide his letter dated: JKSPDC/ADM/EG-98/CJ/8504 dated: 28.3.2013 and accordingly order was passed on 9.4.2013 by the PIO. Hence there is no delay. The Commission being satisfied about the reasonable explanation for passing order beyond the statutory period of time does not resort to action under Section 17.

2. The Commission has perused this communication and also has carefully considered the nature of information sought by the appellant and also the fact that later on an order on the subject matter was passed by Additional Secretary Power Dev. Department-cum-PIO, therefore, the Commission holds that the information with regard to this subject is held by the Power Dev. Department and not the Power Development Corporation. Hence the order passed by the PIO. The appellant has insisted that the information which was given by the PIO vide her order dated: 9.4.2013 is not relevant as it was not sought by the information seeker. What the information seeker had sought was providing copies of agreements executed by the State of Jammu & Kashmir represented through Power Development Department with National Hydel Project Corporation in respect of the above quoted power projects and how much share was of the State and how many agreements have lapsed. After receiving the information from Managing Director J&K Power Development Corporation, the PIO passed an order wherein she has stated that “agreements in respect of Salal HEP, Dul Hasti HEP are not available with the department”. Baghliar part II and Uri part II are not with NHPC. With regard to other projects like Chutak, Nimo Bazgo, Kishen Ganga, Uri II, Bursar, Sewa II and Pakul Dul only the memorandum of understanding was available with the department. The appellant has stated that the information which he sought has not been provided and as a legal remedy he has moved the FAA vide his appeal dated: 17.4.2013. However, there is no order by the FAA so far. The present FAA who attended the Commission informed that First appeal was not adjudicated. As per the provisions of the Section 16 of the State RTI Act the designated FAA is to dispose of or adjudicate first appeal within 30 days or within a further period of 15 days after reasons are recorded for extension in the original time of 30 days. The Commission agrees with the information seeker that he wanted copies of the agreements which were

entered by the J&K Government with National Corporations like NHPC. Memorandum is not a agreement. It is stated before the Commission that projects excepting Uri I and II part have commissioned since long and are generating power. This information is givable as per the provisions of the State RTI Act 2009. Therefore, unless it is proved that it is not in the government records the information was givable. Public authority through PIO is legally bound to disclose the information sought. The appellant did not want copies of Memorandum of Understanding. The disclosure of this information is also not only statutorily required to be made but it is highly in accordance with the objectives and rationale of the State RTI Act, the preamble of which states that the **Act has been promulgated for "setting out the regime of right to information for the people of the State to secure access to information under the control of public authorities in order to promote transparency and accountability in the working of every public authority"**. The PIO is accordingly directed to pass a fresh order providing the information on all the points as sought by the information seeker. The order is to be passed within 15 days time from the date of receipt of this order and be uploaded on the website of the department with an intimation to this Commission so that information seeker can access the same information. Information seeker is also advised to move the Commission under Section 15 of the State RTI Act in case the PIO does not comply with the directions of the Commission. Second appeal is accordingly disposed of

Sd/-

( G.R. Sufi )

J&K State Chief Information Commissioner

Copy to:-

1. First Appellate Authority, Power Development Department, Srinagar
2. Public Information Officer, Power Development Department, Civil Sectt. Srinagar
3. Shri Khalid Tufeel, R/o LKP Shares, Opp. Ganta Ghar, Lal Chowk, Srinagar
4. Private Secretary to Chief Information Commissioner
5. Guard file.

( Mohammad Syed Shah )

Registrar

J&K State Information Commission, Srinagar