



Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

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www.jksic.nic.in

File No: SIC/J/A/121/2013

Decision No: SIC/J/A/121/2013/476

Title:- Suresh Kumar Sharma, H. No: 413-A
Gandhi Nagar, Jammu
V/s
PIO University of Jammu.

Srinagar

08.07.2013

This is a second appeal filed by Shri Suresh Kumar Sharma, a resident of the State. The brief grounds of the appeal are that the appellant had filed RTI application before the PIO Jammu University on 5.10.2012 seeking the following information:-

1. A copy of enquiry committee constituted to look into allegations of works executed UWD under the chairmanship of Prof. R.D. Sharma Dean Academic Affairs, University of Jammu.
2. A copy of the enquiry committee report for construction of the business school under the convenorship of Prof. Rajni Kant Department of Physics.
3. Selection process/screening/minutes and orders of Retd. Xens Sh. O.P.Bhola and Sh. Mahesh Sharma.
4. A copy of enquiry committee constituted to look into allegation of works executed UWD under the chairmanship of Prof. R.D. Sharma Dean Academic Affairs, University of Jammu which was reinvestigated by Professor Rajnikant department of Physics.

This application was disposed by PIO on 15.11.2012 refusing the information on the plea that report of enquiry committee has not been accepted/approved by the competent authority. The appellant not being satisfied with this refusal filed first appeal before the FAA under the State RTI Act in the Jammu University on 10.12.2012. The FAA, it is seen, has passed order on 22.5.2013. Vide this order the FAA

had directed the PIO to provide the information to the information seeker on point No: 1,2 and 4 after collecting the same from the concerned office. It is observed that the FAA was to pass order within a period of 45 days plus 15 days if the reasons warranted for extension of such 15 days i.e the order in any case had to be passed by 24th of January 2013. The appellant has mentioned in his second appeal that he had reminded the FAA to dispose of the first appeal but till the filing of second appeal no disposal was made by the FAA. The FAA passed the order apparently after receiving a notice from the Commission. The Commission has seriously viewed this casual approach on the part of FAA to discharge his statutory duties. The FAA is a public functionary and as a public functionary he is obliged to discharge his duties which are assigned to him by his employer or by any other authority under any law.

2. The PIO has passed the order without application of mind. The appellant had sought the copies of enquiry report. But the PIO denied the information on the plea that enquiry report was not yet accepted or approved by the competent authority. This is not a legally tenable stand. Under the State RTI Act any information which is on record on the date of seeking the same under Section 6 of the State RTI Act has to be given unless it is specifically exempted under Section 8 or 9 of the State RTI Act. The Commission is informed that till date PIO has not provided this information. The attention of FAA is invited to Section 16(3) of State

RTI Act vide which he had to report the failure of PIO to provide incomplete or misleading information to the Commission . The FAA is required to let this Commission know why he did not make any reference to the Commission so far.

3. The PIO, Jammu University is directed to explain why penalty proceedings under Section 17 of the State RTI Act may not be initiated against him for not giving information to the information seeker. His reply, if any, must reach this Commission within 15 days from the receipt of this order. The PIO is also required to explain why he did not comply with the directions of FAA by providing information to the information seeker as the said direction was binding on him. He has also to explain the reasons why Commission may not suggest disciplinary proceedings against the PIO by making a reference to the competent authority for initiating such disciplinary action. The information seeker is also advised to inform the Commission about the receipt of the information.

Sd/-

(G.R. Sufi)

J&K State Chief Information Commissioner

Copy to:=-

1. First Appellate Authority, University of Jammu.
2. Public Information Officer, University of Jammu.
3. Shri Suresh Kumar Sharma, House No: 413-A, Gandhi Nagar, Jammu
4. Private Secretary to Chief Information Commissioner
5. Guard File

(Mohammad Syed Shah)

Registrar

J&K State Information Commission, Srinagar