



Jammu & Kashmir State Information Commission
Old Assembly Complex, Srinagar. Fax ;0194-2484268,2484269
Wazarat Road, Jammu. Fax No: 0191-2520947, 2520927

File No- SIC/J/Comp/01 May/2011
Decision No.- SIC/J/Comp/01 May/2011/482

Order under Section 17 of the J&K State Right to Information Act, 2009

Case titled : Sh. Vilakshana Singh S/o Lt. Sh. Jagdish Singh Dogra R/o Sidhra Bye Pass,
opposite Eicher Workshop, Sidhra
V/s

Khawaja Qamar-u-Din, PIO/DFO Forest Complex, Dogra Hall Jammu

In this case penalty proceedings under Section 17 of the J&K State RTI Act were initiated vide this Commission's Order No: SIC-J/Comp/01/2011 dated: 26.05.2011 and Khawaja Qamar-u-Din, DFO-cum-PIO Forest Department Jammu was asked to give reasons and explanation, for not passing an order within the time and delaying the information unreasonably, as stipulated under Section 7 of the State RTI Act and thus being liable for imposition of penalty and his reply was sought within 15 days from the pronouncement of the order of the Commission. The brief facts of the case are as under:-

Shri Vilakshana Singh S/o Lt. Jagdish Singh Dogra R/o Sidhra Bye Pass, Opposite Eicher Workshop Sidhra, Jammu filed an RTI application on 07.01.2010 before the PIO office of Chief Conservator of Forests Jammu seeking certain information as per his RTI application which the PIO received on the same day i.e 07.01.2010. The PIO had to pass an order on as expeditiously as possible but not later than 30 days as per Section 7 of the State RTI Act. But the PIO failed to pass the order within the stipulated time and provided the information to the information seeker on 26.02.2010 which is late by 20 days. Aggrieved by the act of providing incomplete and misleading information, he filed first appeal before the FAA on 19.03.2010 i.e the Chief Conservator of Forests. The FAA forwarded the application of the appellant to DFO Jammu who happened to be the PIO Jammu. The appellant was orally informed by the PIO for CCF Jammu that the RTI application of the complainant was transferred to DFO Jammu Division. The FAA also took his time and passed the order on 3.2.2011 i.e not within 45 days as provided under State RTI Act. FAA caused the delay of 275 days in disposing off the first appeal. FAA had directed the PIO to provide the required relevant information to the appellant within one week's time. But the PIO did not bother and provided the irrelevant and misleading information to the information seeker. The Commission vide its order dated: 26.05.2011 had directed the PIO to send the information to the information seeker without any charges as per the provisions of the Act within 5 days. He was also directed to explain why penalty may not be imposed on him for delaying the information unreasonably. He was also directed to send his reply to this Commission within 15 days from the pronouncement of this order. But the PIO did not respond to the order of the Commission nor did he cared to the notices issued by this Commission from time to time last one being on 27.6.2013

where under he was given last and final opportunity to furnish his reply explaining why penalty may not be imposed upon him. His reply was sought within 7 days failing which action as warranted under Section 17 of the State RTI Act will be taken. There is no denying the fact that the information seeker has undeniably filed RTI application before the PIO –cum DFO, Forest Jammu on 07.1.2010 and as per the statutory obligation cast on him under Section 7 of the State RTI Act 2009, order was to be passed on the said application by the PIO as expeditiously as possible and in any case within 30 days of the receipt of the request. This is also an admitted fact that no such order was passed within the statutory period of time. The State Right to Information Act confers an important right on the residents of the state to access the information held by the public authorities. Providing of such right has been equated with the fundamental right is aimed for bringing transparency and accountability in the working of the public authorities. PIO has failed to discharge his duties as per the State RTI Act. Therefore Commission in accordance with the powers vested in it under section 17 of the State RTI Act holds Khawaja Qamar-u-Din, DFO-cum-PIO Forest Complex, Dogra Hall Jammu to be in default and hereby impose a penalty on him which is worked as under:-

1.	No of days of default	275 days
2.	Penalty to be imposed for each day	Rs.250/-
3.	Total amount of penalty comes to Rs.	Rs.68750/-

But since the State RTI Act under Section 17 provides that where a PIO without any reasonable cause refused to receive an application for information or has not furnished information within the time specified under the sub section (1) of Section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty five thousand rupees. Accordingly, a penalty of Rs.25000/- is imposed on Khawaja Qamar-u-Din, DFO-Cum-PIO Forest Complex, Dogra Hall, Jammu. The Drawing and Disbursing Officer of Forest Department will ensure deduction of penalty amount of Rs.25000/- (Rupees twenty five thousand only) from the salary of Khawaja Qamar-u-Din, DFO-cum-PIO in two equal instalments from the months of August and September,2013 and remit it to the Government Account Head"0070-other administrative services" with an intimation to this Commission. The DDO is further directed to submit a compliance report alongwith a copy of deduction certificate/challan with T.V. No and date to this Commission within 5 days of the compliance.

Sd/-
(G.R. Sufi)

J&K State Chief Information Commissioner

Copy to:-

1. Commr/Secretary to Government Forest Department, Civil Sectt, Srinagar
2. Chief Conservator of Forests(First Appellate Authority) Jammu Forest Complex, Dogra Hall Jammu
3. Financial Advisor & Chief Accounts Officer, Office of the Chief Conservator of Forests, Jammu
4. Khawaja Qamar-u-Din, DFO-cum-PIO Forest Complex, Dogra Hall Jammu.
5. Private Secretary to Chief Information Commissioner
6. Guard file.

(Mohammad Syed Shah)
Registrar

J&K State Information Commission, Srinagar