



Jammu and Kashmir State information Commission
(Constituted under The Right to Information Act, 2009)
Wazarat Road, Near DC office Jammu, 0191-2520947, 2520937
Old Assembly Complex, Srinagar. 0194-2484269, 2484262
www.jksic.nic.in

File No. SIC/CO/SA/90/2012
Decision No. SIC/CO/SA/90/2012/507

Title :- Haji Nazir Ahmad Shah Rtd. S.O. S/o Ghulam Hassan Shah. R/o Badamwari
Hawal, Srinagar.

V/s

Public Information Officer, PHE, Irrigation & Flood Control Department,
Civil Secretariat, Srinagar

Srinagar
24.09.2013

This is a complaint filed by Sh. Haji Nazir Ahmad Shah, Retired S.O. a resident of the State before this Commission on 27.06.2013. After receipt of this complaint Registry of this Commission initiated action on the complaint by seeking counter statement and relevant documents from the Public Information Officer. Accordingly both newly designated PIO, Sh. Iqbal Hussain Mir, Under Secretary PHE, I&FC Department and complainant attended the Commission. They have been heard.

The brief facts of the complaint are that the complainant filed an RTI application before PIO on 20.05.2013. It was sent by Registered Post under No. ARE 8056509101N Counter No. 10P Code SSK dated 20.05.2013. The postal authorities have confirmed that the registered envelope has been delivered on the addressee. Hence the service is complete. As the RTI application was received in PIO's office on 21.05.2013, PIO had to pass an order as expeditiously as possible but not later than 30 days. Therefore, PIO had to in any case pass the order by 20.06.2013. This order has not been passed so far. The information sought by

the appellant is givable as no limb of information is covered under Section 8 i.e. Prohibited provisions of State RTI Act. It is pertinent to note that the then PIO vide his letter dated 30.08.2013 has informed the appellant that his application dated 20.05.2013 was not received in the office and also preliminary fee of Rs.10/- was also not attached. Similarly PIO has raised some frivolous and out of context points. The appellant had even acknowledged this letter and had informed the PIO vide his letter dated 09.09.2013 that the amount of Rs.10/- was paid and he had again requested for furnishing of information. The present PIO Sh. Iqbal Hussain Mir admits of having received such communication. In brief it is confirmed that the RTI application under consideration has not been responded to within the time allowed under the Act. Therefore, the then PIO Sh. Rattan Chand has attracted the provisions of Section 17 of the State RTI Act and he is required to explain why penalty under Section 17 of the State RTI Act may not be imposed on him. The penalty will be reckoned from the date the information was due till the date the information is actually served upon the information seeker. The Commission is given to understand that erstwhile PIO has been transferred. The present PIO Sh. Iqbal Hussain Mir is therefore, directed to serve copy of this order to Sh. Rattan Chand for his explanation, if any. Sh. Rattan Chand's attention is also invited to provisions of Section 17(2) which envisages that if any PIO without any reasonable cause and persistently failed to receive an application for information or has not furnished the information within the time specified under Sub-Section 1 of Sub Section 7, his case will be recommended for disciplinary action under the Service Rules applicable to him. The Commission has found that this PIO had earlier also failed to dispose of the RTI application filed by the same complainant i.e. Haji Nazir Ahmad Shah against which a second appeal was filed in this Commission and the Commission has initiated penalty proceedings there also. The present PIO is directed to ensure service of this notice on the Ex-PIO.

Sd/-
(G R. Sufi)
Chief Information Commissioner

Copy to the:-

1. Sh. Iqbal Hussain Mir, Public Information Officer, PHE, Irrigation & Flood Control Department, Civil Secretariat, Srinagar.
2. Sh. Rattan Chand, the then PIO PHE, Irrigation & Flood Control Department.
3. Haji Nazir Ahmad Shah Retd. S.O. S/o Ghulam Hassan Shah. R/o Badamwari Hawal, Srinagar.
4. Guard file.

(G.Q. Bhat)
Registrar,
J&K State Information Commission