



Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

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www.jksic.nic.in

File No: SIC/CO/Comp/41/2013

Decision No: SIC/CO/Comp/41/2013/513

Title:- Fayaz Ahmed Khan

V/s

PIO JKPCC

Srinagar

10.10.2013

This is a second appeal filed by Shri Fayaz Ahmad Khan, a resident of the State before this Commission on 27.4.2013. FAA of JKPCC attended. PIO Shri Parvaiz Ahmed Bhat did not attend as reportedly he was busy with some official duty. Complainant Shri Fayaz Ahmad Khan also attended. The brief facts of the case are that as a resident of the State exercising his right to information Shri Fayaz Ahmed filed an RTI application seeking certain information as listed in his RTI application. The information seeker first filed a complaint before this Commission which was replied by the PIO on 15.6.2013. The information seeker, however, again made a communication vide his letter dated: 10.6.2013 to the PIO intimating him that his reply did not disclose the entire information which he wanted. This reminder has not been responded by the PIO. Thereafter, the complainant filed first appeal. After the inquiry of the Commission, the complainant informed the Commission that he had also filed first appeal before the FAA i.e Shri D.D. Gorkha, General Manager JKPCC vide appeal dated 27.5.2013 appealing therein against the FAA. As per the provisions of the State RTI Act, the PIO had to pass an order within 30 days from the receipt of RTI application. The order passed by the PIO on 30.5.2013 is defective in so far as it does not inform the complainant about his right of filing first appeal and giving particulars of the FAA as provided under Section 7(8) of the Act. The perusal of this so called order also shows that on number of points information was not given. Therefore, the appellant was well within his right to file first appeal. The FAA under Section 16 of the said RTI Act was under legal obligation to adjudicate the appeal within one month or within a further extendable time of 15 days after recording reasons for not adhering to the original time of 30 days. He was also under legal obligation to hear the appellant before adjudicating the appeal. Unfortunately, FAA has not bothered to discharge his duty cast on him under Section 16 of the State RTI Act. The FAA under law is a public

authority and refusal to discharge public duties assigned to any public authority is a cognizable matter. It would be appropriate to enclose a copy of the information so sought by the appellant as Annexure "A" to this order.

2. The FAA should have also appreciated that the information so asked was of high public value and was in accordance with the spirit and the purpose of the State RTI Act. The jobs done by the organization to which the FAA belongs do involve huge public exchequer and the State RTI Act has come into operation with the sole purpose of making working of public authorities transparent and accountable. The residents of the State who are tax payers have every right to know how the state expenditure is being spent and their right has further been strengthened by providing right to information which is equated by the highest court of law with the fundamental right of a citizen. By suppressing the information by some implication or by simply wittingly or unwittingly refusing to honor the RTI applications gives rise to genuine apprehension of tax payers whether the budget allotted to the organization is accounted for in a transparent manner.

3. The PIO JKPCCC Shri Parvaiz Ahmed Bhat is directed to explain why penalty proceedings under Section 17 of the State RTI Act may not be initiated against him for providing incomplete and incorrect information. His reply, if any, must reach to this Commission within 30 days from the receipt of this order. Meanwhile, the Commission directs the present FAA Mr. Shahid Latief Haroon to adjudicate the appeal within 15 days from the receipt of this order. While adjudicating this appeal, he has to give an opportunity of being heard to the appellant, PIO and also peruse the record particularly the original RTI application. The order of the PIO dated: 30.5.2013 and find what information has not been provided and direct the PIO to provide full information in accordance with his RTI application. FAA is also directed to upload this information on the website of the JKPCCC with an intimation to the information seeker and confirmation to this Commission.

Sd/-

(G.R. Sufi)

J&K State Chief Information Commissioner

Copy to:-

1. First Appellate Authority, JKPCCC Srinagar
2. Public Information Officer, JKPCCC Srinagar
3. Shri Fayaz Ahmad Khan, S/o Shri Gh. Mohd. Khan, R/o Zaina Kote HMT Srinagar.
4. Private Secretary to Chief Information Commissioner
5. Guard File

(G.Q. Bhat)

Registrar

J&K State Information Commission