



Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

Old Assembly Complex, Srinagar, Fax No. 0194-2484269, 2484262

Wazarat Road Near DC Office, Jammu, Fax No. 0191-2520947, 2520937

www.jksic.nic.in

File No: SIC/CO/SA/58/2013

Decision No: SIC/CO/SA/58/2013/514

Title:- Lal Singh Nag

V/s

PIO Housing & Urban Dev. Department

Srinagar

14.10.2013

This is a second appeal filed by Shri Lal Singh Nag, a resident of State, in this Commission on 4.9.2013. Shri Rakesh Sarangal, Additional Secretary-cumFAA and Smt. Gurdeep Kour, Under Secretary-cumPIO of Housing & Urban Development Department attended. Complainant Shri Lal Singh Nag also attended. All of them were heard. Brief grounds of the appeal are that appellant filed an RTI application before PIO on 8.3.2012. PIO did not pass order within stipulated time as provided under Section 7 of the State RTI Act and passed beyond the stipulated period on 24.8.2012. Hence the then PIO Shri T.C. Baouria is directed to explain why penalty proceedings may not be initiated against him as per Section 17 of the State RTI Act. His reply, if any, must reach the Commission within 30 days from the receipt of this order. The present PIO is directed to serve a copy of this order on Shri Baouria as soon as she receives the order from the Commission.

2. The appellant after having not received an order under Section 7 of the State RTI Act within 30 days preferred second appeal on 11.8.2012 which was received by the FAA on 14.8.2012 appealing the FAA to pass direction to the PIO for providing information and action be taken against the PIO for not providing information on time. The FAA was to pass an order within 30 days extendable by further 15 days after recording the reasons and after providing an opportunity of being heard to the appellant. FAA had initiated action on first appeal after more than 4 months. Ultimately, the order was passed on 8.1.2013. The FAA had found that order passed by the PIO on 8.1.2013 was not complete and PIO was directed to provide the full information to the appellant within a period of 12 days. There is no communication to the appellant regarding remaining information. Accordingly, he filed second appeal before the Commission. As per provisions of sub section 4 of Section 16, a second appeal has to be filed before the Commission within 90 days from the date on which the decision should have been made or was actually received with the State Information Commission.

3. In this case, the decision of FAA was communicated to the appellant in January 2013. The second appeal was received in the Commission on 10th September, 2013 in Jammu Bench. Therefore, there is a gap of more than 3 months. The appellant in his second appeal has given reasons for condoning the delay. It is stated that second appeal was filed late because the appellant approached the PIO for getting correct information and also telephonically informed him. It is further stated that he even approached the Additional Secretary to Government-cum-FAA Housing & Urban Dev. Department with no result and, therefore, having waited for a long period of time filed second appeal late. Therefore, the delay may be condoned. The Commission has considered the submissions for condoning the appeal. The proviso to Section 16 provides that Commission may admit appeal after expiry of period of 90 days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal on time. The issue for adjudication before the Commission is whether the appellant has advanced any sufficient cause. The appellant is a literate and a retired government official. He is quite conscious about his right of information as provided to him under the State RTI Act 2009. There is nothing in the Act which provides that if the PIO or FAA fails to pass the order/orders within time, the appellant will have to personally approach them repeatedly. The appellant has been provided a right in unambiguous terms under the Act to approach the Commission with second appeal. The term "sufficient reason" places a heavy burden on the appellant to prove that more than 3 months delay can be explained only by stating that he was approaching the PIO and FAA for getting the information. Therefore, The Commission does not consider it sufficient cause. There being no sufficient reason before the Commission for condoning the extra-ordinary delay of more than 3 months, the Commission does not consider it a sufficient reason and refuses to admit the second appeal. However, the Commission reminds the appellant that he has a right to file another application under Section 6 before the PIO for seeking remaining information.

The FAA has failed to report about the failure of the PIO to the Commission as provided under sub Section 3 of Section 16. The appeal is accordingly dismissed.

Sd/-

(G.R. Sufi)

J&K State Chief Information Commissioner

Copy to:-

1. First Appellate Authority, Housing & Urban Development Department, Civil Sectt. Sgr
2. Public Information Officer, Housing & UD Department, Civil Sectt. Srinagar.
3. Shri T.C. Bauria, Ex-Under Secretary-cum-PIO, Housing & UD Department.
4. Shri Lal Singh Nag, JMC 554, Street No 7, Talab Tiloo, Jammu
5. Private Secretary to Chief Information Commissioner
6. Guard file.

(G.Q. Bhat)

Registrar

J&K State Information Commission