



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/Comp/84/2012

Decision No: SIC/J/Comp/84/2012/515

Title:- A.R. Hanjura, R/O Gopal Pora,
Chadoora Budgam

V/s

PIO Social Welfare Advisory Board

Srinagar

This is a complaint filed by Shri A.R. Hanjura, a resident of the State, in this Commission on 16.02.2013 against the PIO Social Welfare Advisory Board, J&K complaining therein that the PIO Social Welfare Advisory Board has failed to provide him the information sought by him as per his RTI application filed by him. PIO attended the hearing. However, the complainant sought his exemption from personal attendance.

1. The brief grounds of the complaint are that the appellant filed an RTI application on 7th October 2010 but allegedly no order was by the PIO. Accordingly complainant filed an application under Section 15 of State RTI Act before this Commission on 24.9.2011 and this complaint was disposed of on 4th July 2012 by the Commission under Decision No: SIC/CO/Comp/84/2012/Spl-1 dated: 4.7.2012.

By virtue of this decision PIO was asked to pass a order disposing of the application of complainant and an explanation was sought from the PIO for not imposing penalty.

2. The PIO submitted that he has provided all the information sought by the complainant point wise in pursuance of the directions of this Commission he issued fresh orders and sent the same to the complainant vide his office communication No: SWB/J&K/1064 dated: 24.8.2012 alongwith all the documents as were asked by the complainant through his original RTI application. The PIO further submitted that the Commission heard two different complaints on 4.7.2012 and passed two different orders on these complaints. The Commission was satisfied with the reply of the PIO and the case was disposed of and the orders were issued on 4.7.2012 vide Decision No: SIC/CO/Comp/15/2012/208. And his complaint bearing No: SIC/CO/Comp/84/2012 was also heard by the Commission on 4.7.2012 and a separate decision No: SIC/CO/Comp/84/2012/Spl-1 was issued on 2.8.2012 and as per the directions of

this order, the PIO passed fresh order and furnished information to the complainant vide his office communication No: SWB/J&K/1064 dated: 24.8.2012 alongwith the documents. PIO further submitted that he has furnished all the required information to the complainant and now there is no ground for the complaint. The PIO Social Welfare Advisory Board vide his order dated: 24.08.2012 has informed the complainant that the funds stand released by the Social Welfare Board but these funds were not released to his NGO because these creches were illegally transferred. Therefore, could not issue continuation sanction by the Social Welfare Advisory Board.

3. The Commission has perused the order of PIO under No: SWB/J&K/277/80 dated: 8.6.2012 wherein in accordance with the directions of the Commission contained in earlier order the PIO has given parawise reply to the information seeker. Complainant's written submissions dated: 20.6.2013 accompanied by an affidavit averred that no information was supplied by the PIO and the information was supplied on a different RTI application. The Commission vide its letter issued by the Registrar of the Commission under No: SIC/J/Comp/84/2012/1605 dated: 2.7.2013 informed the complainant that the affidavit was confronted to the PIO who rebutted the contents of the affidavit by producing documentary evidence in the shape of Accounts Register for issue of stamps of Rs.5/- The Register shows the account of postage for the month of August 2012 and complainant's postage was shown at S.No 56 dated: 24th August 2012. The order was later on despatched under No: 1064 on 24.8.2012 as per despatch register. Therefore, the PIO strongly submitted before the Commission that as he has discharged his duty on posting order and despatching the same, therefore, the contents of the complaint have not been substantiated and no cognisance be taken of the complaint. Accordingly, the Commission sought further comments of the complainant. He was several times asked to attend personally and was also asked on telephone to lead evidence. The Commission had, before passing any final order, again intimated the complainant vide its Registry's Notice under No: SIC/J/Comp/84/2012/2039 dated: 23.7.2013 the complainant that the Commission was satisfied with the reply of the PIO that he had passed order in compliance with the Commission's directions and this submission was found to be born from the records. To be fair with the complainant and to give him maximum opportunities to substantiate his allegations against the PIO, he was given one opportunity to disprove the submissions made by the PIO. His proof, if any, was required to be produced within 8 days from the receipt of the notice. However, so far nothing has been heard from the complainant. The contents of the affidavit may have a legal force and may be binding. However, this is established position that if contents are rebutted and if there is no substantial evidences in support of contents of affidavit, the same is not binding on any public authority. The Commission has found that the complainant has been filing numerous RTI applications before the Social Welfare Advisory Board in connection with an NGO run by him or by his close relations or associates. The aim and purpose of the State RTI Act is to bring transparency and accountability in the working of every public authority. But at the same time it is now settled that the Commissions are duty bound to ensure that provisions of the Act are not used in such a way which would hamper and put strains on the functioning of government functionaries who are saddled with numerous public duties. The Hon'ble Supreme Court of India in a detailed judgement in the case of CBSE V/S Aditya Bandopadhyay and another in Civil Appeal No: 6454 of 2011 has while giving detailed reasons referred to provisions of Section 7(9) and observed that Act should not be abused or misused.

The Commission has found as admitted by the complainant, that he has filed a number of applications before the Social Welfare Advisory Board. The Commission would take the opportunity to advise the complainant that if he has to seek information from any public authority, it is in the fitness of things and in accordance with the spirit of the Act that only one consolidated application be filed. It is also expected that in future as and when the complainant again uses the State RTI Act, he has the said right. He would cooperate with the PIO, FAA and Commission in arriving at a correct decision. The complaint is accordingly dismissed.

Sd/-

(G.R. Sufi)

J &K State Chief Information Commissioner

Copy to:-

1. Public Information Officer, J&K Social Welfare Advisory Board Srinagar
2. Shri A.R. Hanjoora R/o Gopal Pora, Chadoora Budgam
3. Private Secretary to Chief Information Commissioner
4. Guard File

(G.Q. Bhat)

Registrar

J&K State Information Commission