



J&K State Chief Information Commissioner
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Wazarat Road, Jammu. Fax No: 0191-2520947, 2520927

File No.SIC/CO/SA/49/2013
Decision No.SIC/CO/SA/49/2013/519

Title:- Syed Mubashir Afaq R/o Litter Pulwama.
V/s
Public Information Officer,
J&K Services Selection Board,
Srinagar.

23-10-2013
Srinagar

This is a 2nd appeal filed by Shri Mubashir Afaq, a resident of the State before this commission on 01-07-2013. The brief grounds of the appeal are that the appellant filed an RTI application before PIO on 09-04-2013 seeking certain information as per RTI application. The PIO sought assistance of Section Officer-Cum-APIO in accordance with section 5(4) of the RTI Act. The PIO has also send two reminders to the said officer/official for providing assistance, thus helping PIO to provide information within time stipulated under section 7 of the State RTI Act. The said official was under legal obligation to provide assistance to the PIO within maximum period of 5 days. Though the communication of the PIO was quite clear invoking section-5, the Section Officer Mr. Syed Altaf did not discharge his legal duties to provide assistance and comply with the directions of the PIO. The said Section Officer Mr. Syed Altaf is accordingly directed to explain why penalty under section 17 may not be initiated and imposed on him treating him deemed PIO who has failed to dispose of RTI application within stipulated period of time. His reply if any must reach this commission in

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Jammu office within one month from the receipt of this order. The present PIO is directed to serve the copy of this order to Mr. Syed Altaf.

After receipt of assistance from the Section Officer on 03-06-2013 the PIO passed order on 04-06-2013 which is in time. As the appellant did not receive order of the PIO within 30 days, he preferred first appeal before FAA on 29-05-2013 appealing therein for directions to providing requisite information. The FAA disposed of first appeal vide his order dated 12-06-2013 satisfying himself that the PIO has already passed order. It is submitted by the appellant before this commission that he was not heard personally by the FAA rather he was directed to appear before the Section Officer. The PIO and his other assistant who attended this commission confirmed that the appellant was not heard by the FAA. The FAA under State RTI Act is not only an executive authority but he is quasi judicial authority with a duty to adjudicate the appeal. The concept of the appeal is that any executive authority cannot adjudicate the appeal without hearing both the parties to the appeal. Deciding the appeal without hearing the appellant is against the established of law. The FAA is therefore, directed that in future he should take his duties seriously which are assigned to him as a public authority under the State RTI Act. The FAA as per section 16(3) of the State RTI Act was under legal obligation to make a reference to this commission for taking necessary action against the PIO/APIO for not passing order under section 7 within time.

The PIO as already stated above has passed order immediately after receiving assistance from the Section Officer. However, Section Officer has been quite careless and disinterested in discharging his duties as assigned to him under RTI Act and thus delayed passing order under section 7 which has dragged the appellant to this commission. The FAA who happens to be Secretary, SSRB is senior officer next to the Chairman in the Board should have called the explanation of the Section Officer and forwarded the same to this commission for taking action against him under section 17.

To dispose of the appeal the appellant as well as PIO were heard. The appellant states that the information of point No.1 is not in accordance with the RTI application. It will be relevant to observe that the appellant had sought information on 8 points. Point No.1 was with regard to disposal

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of representation and objections. The copy of disposal has been provided to the appellant. Hence, interference is called for. Similarly, point No.2 of information that is basis for rejection has also been replied. Similarly, Information on point No.3 has also been replied. However, the appellant states that the selection of the particular candidate has been made against the norms. The appellant should agitate this before the competent authority. However, it is stated by the appellant that the criteria for selection as noted by the PIO in his order is at variance with the advertisement notice No.1 of 2011 dated 31-01-2011. Point No.3 is that on what basis HDCM the core diploma has not been considered as a diploma in Industrial Co-operative Management as it contains all the six subjects of the Industrial Co-operative Management. The reply of the PIO is that the selection was made strictly in accordance with the prescribed qualification. This reply is sketchy and cryptic. The PIO is directed to provide copy of prescribed qualification to the information seeker. The PIO is directed to further clarify to the appellant what were prescribed qualification as he has a impression that the selection made against this post is not in accordance with the prescribed qualification. Points 4 and 5 have already been replied. Accordingly PIO should clarify the same as directed above. On point No.6 the following information was asked:-

In which news paper have you published the merit list and the select list after objection as neither the merit list nor the select list is available on SSRB website?	The reply is as under:- All the notifications/selection lists are sent to the Information Department for publication being the nodal agency for the purpose.
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Reply to this query is very vague. Nothing has been brought before this commission to show whether the advertisement was given in any leading news papers of Jammu and Srinagar in English and Urdu. The commission has observed that there are hundreds of news papers being published from Jammu and Srinagar. The purpose of advertisements for recruitment of any Government job will be defeated if it is not widely advertised and all the deserving candidates of the State are duly aware about the recruitment process. The PIO has also not similarly given information to the information seeker why the list of selected candidates was not available on the website of the SSRB. The appellant has also brought to the notice of this commission that the printout of the SSRB selection details in the case of posts of Auditor and Supervisors and has rightly requested the commission that SSRB may be asked why the selection process in which the appellant was a candidate has not been disclosed on website,

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thus violating principles of transparency which are absolutely necessary for selection process. The PIO is directed to give reasons to the appellant with regard omission of selection list on the SSRB website. The Chairman of SSRB who is a public authority under section 4 of State RTI Act is under legal obligation to publish within 120 days from the enactment of this Act, the following particulars on SSRB's website:-

- (i) the particulars of its organization, functions and duties;
- (ii) the powers and duties of its officers and employees;
- (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
- (iv) the norms set by it for the discharge of its functions;
- (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
- (vi) a statement of the categories of documents that are held by it or under its control;
- (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
- ((viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
- (ix) a directory of its officers and employees;
- (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
- (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
- (xiii) particulars of receipts of concessions, permits or authorizations granted by it;
- (xiv) details of receipt of the information, available to or held by it, reduced in an electronic form.
- (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
- (xvi) the names, designations and other particulars of the Public Information Officer;

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(xvii) such other information as may be prescribed; and thereafter update these publications every year.

The commission has gone through the website of SSRB and noted with pain and anguish that the legal and statutory obligation cast under the Act on the public authorities has not been fulfilled so far, though four years have elapsed since the promulgation of this Act.

The commission therefore, directs that compliance with the statutory obligation as provided under section 4 be made within 20 days from receipt of this order. In case of any failure commission would treat the complaint of the present appellant against the public authority as non compliance of statutory obligation and may take necessary action as provided under section 17 read with section 15. These directions are issued under section 16(9) of the State RTI Act.

The information on point No.7 is as under:-

On what grounds the point No.11 of the interview notification has been ignored which reads as imder:-
“that in case of any deficiency with reference to eligibility proved at the time of interview, the candidate shall not be allowed to appear in the interview, or if any deficiency is found subsequently the candidate shall not be considered for selection and will be treated as disqualified.” The information provided by the PIO is as under:-

“The candidates are allowed only after checking their certificates which are relevant to the posts.”

The reply of the PIO is not in accordance with the RTI application. He is directed to give the information in accordance with the RTI application if the information is part of record.

This has been replied by the PIO that it was shown as prescribed qualification. The PIO is directed to further elaborate by providing copy of prescribed qualification as advertised and as per record of SSRB and nodal department. As the appellant has also asked information on further 5 points against which he received information on point No. 1 and 3. Remaining information on point No. 2, 4 and 5 has not been received by him.

The PIO will not provide information on point No. 4 because it relates to syllabus of Industrial Co-operation Management if not included in his diploma HDCM. This information obviously is

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not maintained and possessed by SSRB, hence this cannot be provided. However, the information on point 2 and 5 be provided. This information has to be provided to the information seeker within 8 days.

Appeal is accordingly disposed of subject to above directions.

Sd/-

(G.R.Sufi)

State Chief Information Commissioner, J&K.

Copy to the:-

1. FAA, J&K Services Selection Board, Srinagar
2. Public Information Officer, J&K Services Selection Board, Srinagar.
3. Syed Mubashir Afaq R/o Litter Pulwama.
4. Private Secretary to Hon'ble CIC.
5. Guard file.

(Gh. Qadir Bhat)

Registrar,

J&K State Information Commission.