



J&K State Information Commission
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www.jksic.nic.in

File No: SIC/3/A/246/2013
Decision No: SIC/3/A/246/2013/521

Title:- Pritam Singh Saini

V/s

PIO Jammu Municipal Commission

Jammu

05/11/2013

This is a second appeal filed by Shri Pritam Singh Saini a resident of the State before this Commission on 8.10.2013 against the failure of PIO Jammu Municipal Corporation to pass an order under Section 7 of the State RTI Act.

2. The brief facts and grounds of the appeal are that the appellant filed an RTI application before the PIO Jammu Municipal Corporation on 19.6.2013 which was received by the PIO on 26.6.2013 seeking certain information as per the RTI application. The PIO had to pass an order as expeditiously as possible but not later than 30 days. Shri Naresh Kumar Secretary-cum-PIO Jammu Municipal Corporation attended and submitted before the Commission that as the full information was not available with him, therefore, he had sought assistance of his junior Shri Satish Chander, Chief Enforcement Officer, as provided under Section 5(4)(5) vide his letter dated 3.7.2013 under No: JMC/S/RTI/1726-28 which was received by Chief Enforcement Officer JMC on the same day. As per PIO, he did

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not receive any assistance from the said authority. Assistance was received only after the notice was issued by the Registry of this Commission for hearing the second appeal.

2. The Commission has gone through the contents of the requisition by the PIO and it is found that this letter was issued in a very casual and routine manner and not in accordance with the provisions of Section 5(4)(5). The defaulting official Shri Satish Chander was deemed to be the PIO as he did not perform his duties as cast on him under the said provisions of law as provided under Section 5(5) of the State RTI Act 2009 as he does not give assistance within 5 days. The said Chief Enforcement Officer who also happens to be designated APIO also attended the Commission. As he failed to discharge his duties in accordance with law he is accordingly directed to explain why penalty under Section 17 of the State RTI Act may not be imposed on him treating him as PIO deemed. His reply, if any, must reach this Commission within 15 days from the date of receipt of this order. The PIO Shri Naresh Kumar has been found to have not perused the matter with seriousness and promptness which it deserved under the provisions of the Act. Therefore, he is required to explain why his case may not be referred to appropriate administrative authority for taking appropriate action against him for failing to discharge his duties cast on him under the State RTI Act. His reply, if any, must reach this Commission within 15 days from the receipt of this order.

2. After having failed to receive the information the appellant filed first appeal before FAA on 7.8.2013 which was received by the FAA on the same day requesting the FAA that as the information is of great public interest, the PIO be directed to provide the information. FAA, as per Section 16 had to pass an order

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adjudicating the appeal after duly hearing the appellant. The predecessor of the FAA wrote a letter to the information seeker on 19.8.2013 under No: MJ/Estt/3453-57 seeking his presence in his office to adjudicate the appeal. Hearing was fixed on 6.9.2013. This notice is admittedly received by the appellant. The appellant did attend the office of FAA. He was not heard on the day and he accordingly later on informed the FAA vide his letter which has been acknowledged in the office of FAA under No: 5146 dated: 14.9.2013 informing him that he was not heard on the date when he was called. The present FAA Shri Kiran Wattal Municipal Commissioner Jammu has submitted before the Commission as his predecessor was transferred he could not adjudicate the appeal. The new incumbent issued fresh notice on 21.9.2013 seeking the attendance of the appellant on 25.9.2013. The appellant attended the office of FAA on 25.9.2013. However, again matter could not be heard because the FAA had to rush to attend his official duties. Since no order was passed by the FAA, consequently, the appellant filed second appeal before this Commission on 8.10.2013 requesting for a direction for providing the information. The Registry of the Commission accordingly issued the notices.

3. The Commission heard all the parties present. The FAA is reminded that it is his public duty to adjudicate the appeals as the duty for the same has been cast on him under the provisions of Section 16 of the State RTI Act. He being a public authority is duty bound to discharge his public duties. The repeated failure may compel the Commission to start proceedings in the appropriate court of law under Ranbir Penal Code for failure to discharge public duties. The PIO is accordingly directed to provide the information to the information seeker within

10 days from the pronouncement of this order as no limb of information is prohibited/exempted under Section 8 of the State RTI Act. It has been observed during the hearing that information seeker who happens to be a retired government officer has not gone through the provisions of the Act at all but he has filed number of RTI applications before public authorities. He is, therefore, advised that in future while exercising his right conferred on him under Section 3 of the State RTI Act, he should discharge his duties and follow the law correctly and in the interest of bringing transparency and accountability in the working of public authorities and not for any other purpose which is not mandated under the Act. The appeal is accordingly disposed of subject to the directions given above.

Sd/-

(G.R. Sufi)

J&K State Chief Information Commissioner

Copy to:-

1. First Appellate Authority, Jammu Municipal Corporation
2. Public Information Officer, Jammu Municipal Corporation
3. Shri Satish Chander, Chief Enforcement Officer, Jammu Municipal Corporation.
4. Private Secretary to Chief Information Commissioner
5. Guard File.

(G.Q. Bhat)

Registrar

J&K State Information Commission