



J&K State Information Commission  
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[www.jksic.nic.in](http://www.jksic.nic.in)

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File No: SIC/J/A/255/2013  
Decision No: SIC/J/A/255/2013/522

Title:- Shri Rohit Sharma  
V/s  
PIO Jammu Municipal Corpn.

Jammu  
05.11.2013

This is a second appeal filed by Shri Rohit Sharma, a resident of the State before this Commission on 14.10.2013 against the failure of PIO Jammu Municipal Corporation to pass order under Section 7 of the State RTI Act. The brief facts and grounds of the appeal are that the appellant filed an RTI application before the PIO Jammu Municipal Corporation on 13.6.2013 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 Executive Engineer JMC by invoking Section 5. This Commission has perused the letter of PIO addressed to the Executive Engineer, JMC for providing him the assistance. As per PIO, he did not receive any assistance from the said authority. The said officer has not provided

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assistance to him within statutory period of 5 days. Hence the Commission directs the concerned Executive Engineer Shri Sunil Gupta to explain why penalty under Section 17 of the State RTI Act may not be imposed on him treating him as PIO in default for delaying the assistance. The present PIO Shri Naresh Kumar is directed to serve a copy of this order on him. His reply, if any must reach this Commission within 15 days from the pronouncement of this order. The PIO has submitted before this Commission that information later on was provided. Incidentally, the Executive Engineer, while passing the order has not identified himself. This is against the basic spirit of the State RTI Act which aims at ensuring transparency and accountability. It is also in violation of number of circulars issued by the Government through the General Administration Department from time to time and latest on 10.09.2013. Notwithstanding with these observations the Commission does not treat it an order passed under Section 7 because as per the Act it is the PIO who has to pass the order under Section 7 and not any other officer who may be asked to provide any assistance. Even the information that has been provided by Executive Engineer is not complete as the vital information sought has been withheld. The present PIO is directed to pass an order within 7 days from today i.e date of pronouncement of this order. He has to address all the points of information sought by the information seeker vide his RTI application. The appellant is advised to inform the Commission with a copy of information received from the PIO and if Commission's order is not complied the appellants attention is invited to Section 15 of the State RTI Act for taking necessary action as deemed fit by him. After having failed to receive the information the appellant

filed first appeal before FAA on 20.7.2013 which was received by the FAA on 22.7.2013 requesting the FAA that the PIO be directed to provide the information. FAA, as per Section 16 had to pass an order adjudicating the appeal after duly hearing the appellant. But the information seeker was not given an opportunity by the FAA on being heard and did not pass any order on the first appeal.

2. The present FAA Shri Kiran Wattal Municipal Commissioner Jammu has submitted before the Commission as his predecessor was transferred he took over as new Commissioner Jammu Municipality on 7.9.2013. Since no order was passed by the FAA, consequently, the appellant filed second appeal before this Commission on 14.10.2013 requesting for a direction for providing the information. The Registry of the Commission accordingly issued the notices. 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 discharging public duties

3. It has been observed that the public authority in this case i.e Municipal Commissioner Jammu is under legal obligation as provided under Section 4 of the State RTI Act to make a suo moto disclosure of the information held and possessed by him as such public authority. This information was to be uploaded and disseminated within 120 days from the enactment of State RTI Act 2009 w.e.f 20<sup>th</sup> March, 2009. Unfortunately, inspite of lapse of four years no compliance has been made. As per Section 4 (2(b) the public authority had to make suo moto disclosure of information contained in said provisions of law. As enough time has

been given for compliance, therefore, Commission directs that this information be uploaded and disseminated in the official website of the Jammu Municipal Corporation within 20 days from the date of receipt of this order. As per Section 4 read with Section 15 any resident of the State can file a complaint before the public authority and later on before this Commission if compliance with the provisions of Section 4 is not made. These directions are issued by the Commission in accordance with Section 16(8) of the State RTI Act. The suo moto disclosure of the following information has to be made:

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

The appeal is accordingly disposed of subject to above directions.

Sd/-  
(G.R.Sufi)

State Chief Information Commissioner

Copy to:-

1. First Appellate Authority, Jammu Municipal Corporation Jammu
2. Public Information Officer, Jammu Municipal Corporation
3. Shri Sunil Gupta, Executive Engineer, Jammu Municipal Corporation
4. Shri Rohit Sharma S/o Sh. Rajinder Kumar Sharma, Ward No: 32, Lane No: 494-JMC, Vijay Nagar, Talab Tillo Jammu
5. Private Secretary to Chief Information Commissioner
6. Guard File

( G.Q. Bhat )  
Registrar  
J&K State Information Commission