



**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](http://www.jksic.nic.in)

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File No: SIC/Comp/J/87/2011

Decision No: SIC/Comp/J/87/2011/531

Title: R.L. Sethi v/s PIO J&K Housing Board

Jammu

19.11.2013

In this case Shri R.L. Sethi, a resident of the State filed an RTI application before the Managing Director, J&K Housing Board on 22.02.2011 which was received in the office of Managing Director on 22.02.2011 seeking certain information as per his RTI application. The Managing Director was under legal obligation to forward the application to the PIO within 5 days of the receipt of the application and the PIO had to pass an order within a maximum period of 35 days including the period of forwarding. From the records it is not seen that the M.D had forwarded the RTI application to the PIO within 5 days. The order was to be passed on 27.3.2011 which has not been done. The PIO woke up only after receiving the Commission notice dated: 27.5.2011. Having failed to receive any information, the complainant filed complaint before this Commission on 8.4.2011 requesting therein for looking into his case and for further necessary action against the defaulter. Registry of the Commission issued 7 days notice to the PIO vide No: SIC/J/Comp/87/2011 dated: 27.5.2011. Secretary of the Housing Board responded to the notice of this Commission vide his letter No: HB-1510-11 dated: 22.6.2011 with a copy to the appellant. Registry of this Commission accordingly fixed hearing of the case and the Commission in its decision dated: 18.8.2011 directed the PIO to explain within one month's time the reasons for not imposing penalty on him under Section 17 of the State RTI Act 2009 for delaying the information. The PIO vide his letter dated: 25.8.2011, received in this Commission on 9.9.2011, has pleaded that the office premises of J&K Housing Board was under "major renovation for the last more than one year with the result most of the record remain in an un-organized manner and had requested for condonation of the delay".

2. From the reply of the PIO it appears that the PIO has shown total disregard to the provisions of the law refusing to discharge his statutory duties on frivolous grounds. It has nowhere been established that the office was closed and non operational during the renovation

period. He has failed to give any reasonable and justified explanation. Therefore the Commission in accordance with the powers vested in it under Section 17 of the State RTI Act holds PIO Shri R.P Sharma of J&K Housing Board, Jammu to be in default in terms of Section 6 read with section 17 of the State RTI Act and hereby impose penalty on him which is calculated as under. The delay in passing an order is 85 days. There may, however, be some dislocation of records resulting in some delay. However, it cannot be imagined that there will be delay of 85 days and the officer did not attend any other work. The intention of the officer in not complying with the provisions of the State RTI Act are clear that till the Commission issues notice, he does not do any action for passing the order. He should have informed the complainant that because of renovation being done in the office, there may be some delay. Nothing of the sort has been done. Therefore, taking an overall view, delay is restricted to two months giving the benefit of doubt to the PIO for any minor dislocation of the record during the period of renovation in the office:-

1.	No of days of default	85 days
2.	Delay restricted to two months i.e	60 days
3.	Penalty to be imposed for each day from the date of receipt of application i.e 22.2.2011 to date of providing the information 22.6.2011	Rs.250/- per day
4.	Total amount of penalty imposed	Rs.15000/-

The Drawing and Disbursing officer of J&K Housing Board will ensure deduction of penalty amount of Rs.15000/- (Rupees Fifteen thousand only) from the salary of Shri R.P. Sharma Secretary-cum-PIO in two equal instalments from the month of December 2013 and January 2014 and remit it to the Government Account Head "0070-other administrative services" with an intimation to this Commission. The DDO is further directed to submit a compliance report alongwith a copy of deduction certificate/challan with TV No and date to this Commission within 5 days of the compliance.

Sd/-

( G.R. Sufi )

J&K State Chief Information Commissioner

Copy to:-

1. Commr/Secretary to Govt. Housing & Urban Dev. Deptt. Civil Sectt. Jammu
2. First Appellate Authority, J&K Housing Board, Jammu
3. Public Information Officer, J&K Housing Board, Jammu
4. Shri R.L. Sethi, S/o Late Shri Des Raj Sethi, H.No:29, Mohalla Afghan, Jammu
5. Private Secretary to Chief Information Commissioner
6. Guard File

( G.Q. Bhat )

Registrar

J&K State Information Commission