



Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

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www.jksic.nic.in

File No: SIC/CO/SA/72/2013

Decision No: SIC/CO/SA/72/2013/540

Title:- Vilakshana Singh Advocate

V/s

FAA/PIO J&K Legislative Council

Jammu

03.12.2013

This is a second appeal filed by Shri Vilakshana Singh Advocate, a resident of the state before this Commission on 8.10.2013. The Registrar of this Commission issued preliminary notices for hearing to FAA and PIO, a copy of which was also endorsed to the appellant Shri Vilakshana Singh who was required to be present in person or through his authorized representative to enable the Commission to arrive at a correct decision. However, he chose not to be present before the Commission. He was tried to be contacted on his phone but he did not pick up the phone perhaps due to his busy schedule in the Hon'ble Court. The appeal is accordingly decided on its merits.

2. The brief facts and grounds of the appeal are that the appellant had filed an RTI application before PIO State Legislative Council on 20.6.2013 for seeking certain information which is listed in the application. PIO has admittedly passed an order which the appellant consider to be incomplete and not satisfied with the order of the PIO, appellant filed first appeal before the FAA on 29.7.2013. This appeal has remained undisposed of by the FAA till date. The FAA has submitted before the Commission that the file was not put up to him by the concerned staff. The FAA has also produced the relevant record before the Commission which has perused. This appeal has been sent by post by the appellant and received in the

office of FAA J&K Legislative Council, Srinagar but has not been put up to the FAA by the concerned staff. That is the reason that the first appeal remained undisposed of by the FAA. The FAA has also sent his parawise comments through his PO on the averments made in the second appeal. The FAA has also ordered an enquiry for fixing the responsibility on the concerned officer/official for not producing and presenting the appeal before the FAA for his disposal. The Commission has gone through the averments made and heard the FAA in person and Commission is satisfied that there was a reasonable cause for the FAA not to have disposed of the first appeal within the time frame laid down under Section 16 of the State RTI Act,2009. The Commission does not agree with the contention of the appellant that by not passing order it should be deemed that the FAA has also refused to order disclosure of the information. Under the facts and circumstances of the case it would be appropriate if the first appeal is restored back to the FAA. The FAA is directed to dispose of the appeal within 15 days from the date of receipt of this order after giving due opportunity of being heard to the appellant. Before concluding this order, the appellant is also advised to quote the designation of the FAA. It is to be mentioned in the first appeal what is the designation of the FAA in the parent department who has been designated as FAA by the Public Authority. The scheme of the Act regarding designation of PIO and FAA is a ex-officio arrangement. The fact remains that these authorities are appointed with a particular also designation in their parent departments. The RTI user particularly an advocate is required to keep these important concepts in view while exercising his right of seeking information.

The appeal is accordingly disposed of.

Sd/-

(G.R. Sufi)

J&K State Chief Information Commissioner

Copy to:-

1. Secretary to Govt. Law Department
2. First Appellate Authority, J&K Legislative Council
3. Public Information Officer, J&K Legislative Council
4. Vilakshana Singh Advocate, R/o Sidhra By Pass, Jammu
5. Private Secretary to Chief Information Commissioner
6. Guard file

(G.Q. Bhat)

Registrar

State Information Commission