



Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

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www.jksic.nic.in

File No: SIC-K/SA/40/2013

Decision No: SIC-K/SA/40/2013/545

Title: Sh Ghulam Mohammad

V/s

PIO/Superintending Engineer EM&RE Circle-Ist Srinagar

PIO/Chief Engineer EM&RE Kashmir

Srinagar

06.12.2013

This is a second appeal filed by Sh. Ghulam Mohammad, a resident of the State in this Commission on 19.11.2013. PIO O/o CE EM&RE Kashmir, Technical Officer (Asstt. Executive Engineer) cum PIO in the office of S.E EM&RE Circle-Ist and appellant Sh. Ghulam Mohammad also attended. They have been heard.

2. The brief grounds and facts of the appeal are that the appellant filed an RTI application on 13.09.2013 seeking certain information before PIO/ O/o CE PDD Srinagar. PIO/CE PDD Kashmir vide letter dated 19.09.2013 forwarded the said RTI application to PIO/SE EM&RE Circle-Ist Srinagar stating therein that the information be provided to the information seeker within 5 days under an intimation to his office. Forwarding has been done within time. PIO in SE's office was under legal obligation to pass an order within maximum period of 30 days after he received information from other PIOs. As no information was received by the appellant within 30 days time, he preferred first appeal before Chief Engineer PDD Kashmir for seeking directions for disclosure of information. This first appeal

was received in Chief Engineer's office on 28.10.2013. Chief Engineer as First Appellate Authority was under legal obligation to adjudicate this appeal within a maximum period of 45 days i.e. 30 days + 15 days extended time after recording the reasons for such extension. If he was not designated First Appellate Authority then again it was the public duty cast on him to forward the said appeal to the designated First Appellate Authority under State RTI Act. Nothing has been done. The Commission is intimated that Superintending Engineer Circle Ist is First Appellate Authority to adjudicate this appeal. In brief till the date of filing second appeal by the appellant in the Commission and Commission's notices to the PIO and First Appellate Authority no information was provided to the information seeker. While going through RTI application it becomes quite evident that it touches a very important issue of public importance which if properly used would go a long way in ensuring accountability and transparency in the working of such public authority which is the purpose for which State RTI Act 2009 has come into operation.

3. During hearing the information has been handed over today in the office of the Commission to the information seeker. PIO is directed to explain the reasons for delaying the information so that action under Section 17 be considered. The

reply of the PIO should reach this Commission within 30 days from the receipt of this order. The information seeker is advised to see that the information so disclosed today is in accordance with his RTI application and his attention is also invited to Section 15 of the RTI Act.

4. It is further observed that there is no authentic dispatch and receipt system in the PDD. The receipt has been given on a chit without identifying the concerned person incharge of receipt. Authorities of PDD are accordingly advised to introduce an authentic system of receipt and dispatch which will ensure responsibility of the people who are assigned the duties of receipt and dispatch.

5. It has been observed during the proceedings that the public authority has not complied with the provisions of Section 4 of the State RTI Act 2009 which obliged him 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 20th 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 a 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 EM &RE Kashmir within 10 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.

6. It has been observed that the information seeker in this case has used his right to information in a number of cases and obtained the information on some important issues relating to transparency and accountability. His attention is invited to the preamble of RTI Act which makes it incumbent on him to use this information for bringing transparency and accountability in the working of public authorities. He is required to share user of the information which has already been received by him with the Commission. His feedback is expected within 30 days from the issue of this order.

Sd/-
(G.R. Sufi)
J&K State Chief Information Commissioner

Copy to:-

1. Commr/Secretary to Government, Power Dev. Deptt. Civil Sectt. Jammu
2. Chief Engineer, Power Dev. Department, Kashmir
3. Public Information Officer, Office of the Superintending Engineer RM & RE Circle Ist, Srinagar
4. Public Information Officer, Office of the Chief Engineer, EM & RE Kashmir
5. Shri Ghulam Mohammad, R/o Meerak Shah Colony, Habak Srinagar
6. Private Secretary to Chief Information Commissioner
7. Guard file

(G.Q. Bhat)
Registrar

J&K State Information Commission