



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/Temp No/137/2013

Decision No:SIC/CO/Temp No/137/2013/546

Title:- Zahoor Ahmad Misger

V/s

1. Executive Engineer-cum-PIO
Sub Transmission Division-II
Raj Bagh, Srinagar and
2. Executive Engineer-cum-PIO
EM & RE Division Udhampur

Srinagar

09.12.2013

This is a complaint filed by Sh. Zahoor Ahmad Misgar, a resident of the State before this Commission on 19.06.2013 for not being provided the information sought by him vide his RTI application dated 28.09.2012. The complainant was heard through video conferencing on 25.11.2013. However, as the complainant was not fully audible through video conferencing, the Commission had advised him to be present at Srinagar Office on 09.12.2013 so that he could be properly heard and his complaint accordingly disposed of. However, he could not attend the hearing because as informed on telephone he was not feeling well. PIO was heard at Jammu office. The complaint was accordingly disposed of on the basis of available records.

2. As already stated that the complainant had filed an application for seeking information. However, the application was not properly addressed. It was addressed to Principal Secretary to Govt. Power Development Department, Civil Secretariat who obviously was not PIO but he was under legal obligation to forward the said application to the concerned PIO within stipulated period of time. As per record there is a letter from Administrative Department under No. PDD/Genl/47/2012/RTI dated 05.10.2012. Thus it is obvious that Principal Secretary's office acted in accordance with the provisions of RTI Act in forwarding RTI application to the concerned PIO which is appreciated. However, it is shocking to find that action on this letter has been initiated by PIO in Chief Engineer's Office after nearly 5 months. There is another letter from PIO/Chief Engineer's office dated 23.03.2013 to PIO/Executive Engineers Sub Transmission Division Ist Jammu and EM&RE Division Udhampur to pass an "order within time otherwise failure would invite penalty on the concerned PIO". It is again shocking and painful to find that the concerned officers in the office of Development Commissioner Power have woken up after 9 months from the receipt of a communication from Principal Secretary's office dated 05.10.2012. It was appropriate that taking the clue from promptness of their senior officer in following the provisions of law, the subordinate officers should have been more prompt and vigilant in following the provisions of law which has not been done. Executive Engineer cum PIO Sub Transmission Division II, Rajbagh Srinagar has responded to the communication of Development Commissioner Power vide letter No. STD-II/116 dated 08.04.2013 and forwarded the information. Surprisingly not to information seeker but to Development Commissioner Power's office. Thus the concerned PIO has shown ignorance with the provisions of the State RTI Act. Vide transparency law i.e. State RTI Act the principal actor is the information seeker who is conferred a right to seek and obtain information held by public authorities but instead of providing information to him directly the concerned officers have resorted to fulfilling bureaucratic requirements thus bringing themselves under the ambit of provisions of Section 17 of the State RTI Act which makes them liable for penalty if the information sought and givable under the Act is not provided within stipulated period of time. The stipulated period in this case was 35 days from the date of receipt of application i.e. 28.09.2012 was Ist November 2012. Another PIO i.e. Executive Engineer Electric Maintenance and Rural Electrification Division Udhampur responded to RTI application vide his letter dated 23rd April 2013. As per the records on file the

information has not been provided to the information seeker till the date of filing appeal in the Commission.

3. As already stated above the PIO in Principal Secretary's office has taken due legal action as provided under the Act within stipulated period of time which is appreciated. However, there has been default on the part of PIO in Chief Engineer's office who was to forward the RTI application to the appropriate PIO who was holding the information or alternatively PIO in Chief Engineer's office should have collected the information from field officers and forwarded the same to the information seeker within time as is provided under Section 5 and 6 of the State RTI Act. Penalty proceedings under Section 17 are now initiated against Sh. Mohammad Yousuf Baba, Executive Engineer cum PIO Sub Transmission Division-II Rajbagh Srinagar and Sh. Sandeep Seth, Executive Engineer cum PIO EM & RE Division Udhampur for passing the order under Section 7 of the State RTI Act considerably late. . It is also seen that both the orders passed by these 2 PIOs are not complete as far as neither information has been fully given nor the reasons for not providing information and particulars of First Appellate Authority have been provided to the information seeker as provided under Section 7 sub section 8 of the State RTI Act. As both the PIOs have defaulted in not providing information within stipulated time; hence the default has been committed which attracts the provisions of Section 17. PIOs are required to explain the reasons if any for not imposing penalty on them. Their reply must reach this Commission within one month from the date of receipt of this order.

4. Commr/Secretary to Government, Power Development Department and the Chief Engineers in the capacity of being public authorities as envisaged in the State RTI Act are required to arrange special training programmes for their FAAs, PIOs and APIOs to have a reasonable understanding of RTI Act and correct procedures to be adopted during disposal of various applications arising out of RTI provisions.

Sd/-

(G.R. Sufi)

J&K State Chief Information Commissioner

Copy to:-

1. Commr/Secretary to Government, Power Dev. Department, Civil Sectt. Jammu

2. Chief Engineer, Power Development Department, Kashmir
3. Chief Engineer, Power Development Department, Jammu
4. Executive Engineer-cum-PIO Sub Transmission Division-II, Raj Bagh, Srinagar
5. Executive Engineer-cum-PIO.EM & RE Division, Udhampur
6. Shri Zahoor Ahmad Misger S/o G.M Misger, R/o Shah Mohalla, Nawa Bazar, Srinagar
7. Private Secretary to Chief Information Commissioner
8. Guard File.

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

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