



**Jammu and Kashmir State Information Commission**

(Constituted under Right to Information Act 2009)

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File No: SIC/CO/SA/79/2013

Decision No: SIC/CO/SA/79/2013/549

Title:- Shiv Shankar Sharma

v/s

PIO Public Health Engineering Deptt.

Jammu

19.12.2013

This is a second appeal filed by Shri Shiv Shankar Sharma, a resident of the State before this Commission. The brief grounds and facts of the appeal are that RTI application was received on 19.6.2013 which was to be responded as expeditiously as possible but not later than 30 days. The PIO responded to the RTI application on 12.7.2013 which is in time informing the information seeker that the letters dispatched by him were not received and hence no information was given. The appellant being aggrieved with this reply filed first appeal before Shri Shyam Vinod Meena, Additional Secretary-cum-First Appellate Authority, PHE Department, Civil Secretariat. It is stated by the FAA that after starting initial process, he was informed by Superintending Engineer-cum-FAA, Chief Engineer PHE's office that he was not the FAA. The FAA Chief Engineer's office i.e the Superintending Engineer was thus required to adjudicate the appeal and pass an order under Section 16 of the State RTI Act within a maximum period of 45 days. However, there is no order under Section 16 by the said Superintending Engineer. The PIO Shri C.P. Sharma has submitted before this Commission that SE endorsed the appeal vide his order dated: 2.9.2013. The Commission has gone through this

communication and have also heard the appellant, PIO and FAA PHE Civil Secretariat. The appellant has denied of having made any application to the FAA, Chief Engineer's office. The application was made in connection with some other RTI application. The SE as FAA should have acted in accordance with the provisions of Section 16(2) which has not been done by him. The FAA PHE, Civil Secretariat was also required to properly deal with the subject by forwarding the first appeal to the concerned appellate authority i.e the SE. The appellant has also failed to follow proper procedure while filing first appeal, though he seems to be regular RTI user. He should have addressed appeal to the concerned FAA i.e SE, Chief Engineer's office.

2. The PIO has denied information simply on the basis that the letters dated: 15.4.2010 and 7.2.2011 sent through registered post have not been received by him, hence no action. The applications have been sent through Registered Post and it is therefore presumed that it should have been normally delivered. The PIO is directed to obtain the copies of these letters from the appellant and provide the information as the information sought is givable under the Act. The appellant is also directed to lead evidence and proof before the PIO about sending the letters through registered post. The information be given to him within 10 days from the receipt of this order. The PIO is also directed to be careful in future about passing orders under Section 7 of the RTI Act. The said section envisages for the PIO to inform the information seeker about his right to appeal and also providing him full particulars of FAA.

3. 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 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 a suo moto disclosure of information contained in said provisions of law. The website of PHE does not reflect any link for RTI. As enough time has been given for compliance, therefore, Commission directs that this information be uploaded and disseminated in the official website of PHE within 15 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:

- (a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under the Act and ensure that all records that are appropriate to be computerized are, within a reasonable time and subject to availability of resources, computerized and connected through a network all over the State on different systems so that access to such records is facilitated ;
- (b) Publish within one hundred and twenty days from the commencement of the Act.-
  - (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 m. 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 person 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 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.

4. The attention of the FAA and PIO is also invited to the fact that the purpose and rationale of said RTI Act is to bring transparency and accountability in the working of every public authority as laid down in the preamble of the Act. The first ingredient for bringing transparency and accountability is that the public authorities higher or lower have to identify themselves by writing their names above their signatures in any official orders, circulars, notifications, letters and even office notings. Even before the RTI Act was enacted in this State, Government vide its Circular No: GAD of 2004 dated: 14.7.20014 followed by further circulars and latest being Circular No: 20-GAD of 2013 dated: 10.9.2013 had made all the officers incumbent to indicate their names and designation below their signatures while initiating or endorsing any noting/proposal for consideration of the competent authorities and also on the communications exchanged with different departments. Not only the officers are to mention their names but they have been advised to mention their telephone numbers and e-mails on letters/letterheads/correspondence etc; to make communication specific and easier. If the officers and concerned authorities fail to disclose their names, it suggests that they want to defeat the very purpose of concept of accountability and responsibility. Unfortunately all these circulars so far are not being presently followed. The Registrar of this Commission is directed to attach a copy of latest circular of the Government on the subject with this order.

The said appeal is accordingly disposed of subject to above directions.

Sd/-  
( G.R. Sufi )

J&K State Chief Information Commissioner

Copy to:-

1. Commr/Secretary to Government, Public Health Engineering Department, Civil Secretariat, Jammu.