



**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/CO/Comp/83/2013

Decision No: SIC/CO/Comp/83/2013/550

Title:- Imtiyaz Ahmad Bazaz  
V/s  
PIO-Board of Professional Entrance Examinations  
Jammu  
26.12.2013

This is a complaint filed by Shri Imtiyaz Ahmad Bazaz, a resident of the State against the PIO BOPEE for not passing order and providing information which the complainant was entitled to get as per Section 3 read with Section 6 of the State RTI Act. The brief facts of the case are that the complainant Shri Imtiyaz Ahmad Bazaz wanted certain information from PIO BOPEE as per application dated: 28.8.2013. The Commission has gone through the details of information asked and in absence of any speaking order by the PIO, information was givable as expeditiously as possible but not later than 30 days. In this case, PIO was to pass order on 28.9.2013. The complainant filed a complaint to the effect that no order has been passed by the PIO. The information seeker probably not being fully aware about the contents of information act should have filed first appeal before the FAA who is Secretary of the BOPEE and had that appeal been filed, the FAA had to dispose of the appeal within a maximum period of 45 days disclosing the information. However, the case as it is now, the complainant straightly came up with the complaint under Section 15 before this Commission. The PIO BOPEE in response to Commission's notice dated: 14.11.2013 has written to the Commission that he had responded to complainant's application on 29.8.2013 vide letter dated: 23.9.2013. First of all this so called letter has not been received by the complainant within the time as provided under the Act. It has been written only after Commission issued the notice. Secondly, the information cannot be denied by simply stating that information asked is of confidential nature. Under RTI Act, there are specific instances on the basis of which any information can be denied those instances are enumerated in Section 8 and 9 of the State RTI Act. No limb of section 8 and 9 is applicable on the information sought by the complainant. Even if any limb of information is hit by any provisions of section 8 and 9, PIO has to give a speaking, coherent and detailed order stating under what circumstances the information so sought is hit by the said provisions. The

communication dated: 21.11.2013 sent by PIO has not even identified himself by mentioning his name is thus devoid of any legal reason and substance. As the PIO has failed to pass order within the stipulated period of 30 days, therefore, he is given any opportunity to explain why penalty may not be imposed on him for failing to pass an order. This penalty will be reckoned with from the date order was passed till the date order is actually passed and information is provided. His reply, if any, must reach this Commission within 8 (eight) days from the receipt of this order. The Registrar of this Commission is directed to issue summon to the PIO for not attending this office in response to Commission's notice dated: 27.11.2013.

The information seeker who is stated to be free lancer i.e a respected citizen is expected to peruse the State RTI Act in accordance with the provisions of the law. Instead of filing complaint before this Commission, he should have used his right of first appeal which has been conferred on him under section 16 of the State RTI Act.

The complaint is accordingly disposed of.

Sd/-

( G.R. Sufi )

State Chief Information Commissioner

Copy to:-

1. Chairman, Board of Professional Entrance Examinations, Jammu
2. Public Information Officer, Board of Professional Entrance Examinations, Jammu.
3. Shri Imtiyaz Ahmad Bazaz, Lane No 14, Firdous Abad, Batmaloo, Srinagar.
4. Private Secretary to Chief Information Commissioner
5. Guard File.

( G.Q. Bhat )

Registrar

State Information Commissioner