



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/Comp/77/2013

Decision No:SIC/CO/Comp/77/2013/553

Title:- Tarun Kumar Bali
V/s
FAA/PIO PHE I&FC

Jammu
30.12.2013

This is a second appeal filed by Shri Tarun Kumar Bali, a resident of the state against the failure of PIO for not passing an order within time. The only ground of appeal raised in the application is that no information was given to him in response to his RTI application dated: 16.2.2012. It is further stated that he had applied to the FAA on 28.5.2013. Both FAA Shri Shyam Vinod Meena and PIO Shri Shiraz Ahmad Chauhan attended the Commission and they have been heard. The PIO has informed the Commission that his predecessor and he responded to his RTI application dated: 26.2.2012 and 12.11.2013. FAA vide his written submissions under No: PW/G/HYG/35/2013 dated: 19.11.2013 has intimated this Commission that he did not receive any appeal. Hence no adjudication was done by him. The appellant inspite of having been informed to be present before the Commission so as to help the Commission to arrive at a correct decision, did not attend. Hence there is no evidence before the Commission that first appeal was received by the FAA. The onus for showing such evidence was on the appellant. The Commission has gone through the entire record and found that so called order passed by present PIOs predecessor dated: 5.3.2013 is passed in a very careless manner without going through the provisions of Act and the citation cited by the then PIO Syed Nazir Ahmad, Under Secretary has also been done prima-facie without going through the contents of the Hon'ble Supreme Court's decision as relied by him. The Commission has gone through the contents of the RTI application and found that information at point Nos 2,3,4,5 was givable information. There was no hypothesis in these points of information. Therefore, earlier PIO has not understood the definition of information. With regard to

information sought at point nos 6,7,8,9 and 10 they are hypothetical points and are not recorded anywhere in the records. Hence the PIO is not required to give such information. The information seeker's particularly the literate and educated people are also required to know what is the definition of information given in State RTI Act . This be kept in view that public authorities are supposed to give only that information which is recorded in the record held by them or obtained by them under their control. The present PIO Shri Shiraz Ahmad has shown the Commission entire file and has stated that information seeker was given the entire file noting. This satisfies the information sought at point no 4 of the notings from SO. The PIO is directed to give a clarificatory information on point nos 2,3 and 4. The PIO is also advised that in future he should carefully go through the provisions of State RTI Act particularly Section 7 and inform the information seeker about his right to appeal giving full particulars of the FAA as is mandated in section 7(8) of the State RTI Act.

2. It is noted with regret that inspite of State RTI Act being in operation since March 2009 and public authorities being made responsible for making a suo mote disclosure under Section 4 within 120 days, the public authority has failed to do it so till today. The Commission had also directed the public authority i.e Commr/Secretary to Government PHE I&FC Department to make compliance vide Commission's decision in a case Shri Shiv Shankar Sharma v/s PHE on 19.12.2013. The concerned public authority's attention is invited to the provisions of Ranbir Penal Code read with State RTI Act with regard to failure of a public authority to do a public act as assigned to him without any reasonable cause. The public authority is once again directed to send compliance report to this Commission within 8 days from the receipt of this order with regard to compliance made with section 4 of the State RTI Act.

3. It is seen that PIOs working in the PHE I&FC Department have not acquainted themselves with the State RTI Act and therefore, in accordance with section 16(9)v of the State RTI Act, the Commission directs the public authority to make necessary arrangements for the trainings of the PIOs working under his control..

The second 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, PHE I&FC Department, Civil Sectt, Jammu
2. First Appellate Authority, PHE I&FC Department, Civil Sectt. Jammu
3. Public Information Officer, PHE I&FC Department Civil Sectt. Jammu
4. Shri Tarun Bali, R/o 70/14 Nanak Nanak Nagar, Jammu
5. Private Secretary to Chief Information Commissioner
6. Guard file.

(G.Q. Bhat)

Registrar

State Information Commission