



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/SA/81-2013

Decision No: SIC/CO/SA/81-2013/555

Title:- Tara Chand Sharma
V/s
PIO Power Dev. Department

Jammu
31.12.2013

This is a second appeal filed by Shri Tara Chand Sharma, a resident of the State before this Commission on 18.10.2013. The Registry of this Commission after receiving second appeal posted the hearing of the case and accordingly FAA and PIO were required to attend the hearing and submit their counter statement with regard to various grounds of appeal raised in the second appeal. Appellant Shri Tara Chand Sharma also attended. Secretary Technical-cum-FAA could not attend the meeting because of the reasons of attending an official meeting in Srinagar. The brief facts of the appeal are that the appellant filed an RTI application before PIO, Power Development Department, Civil Secretariat, Jammu which was received in his office on 25.4.2013 seeking the following information.

- “1. Copy of the letter vide which the above said posts have been referred to the SSSRB for advertisement/selection of the candidates.
2. No of such vacancies included in the referred to vacancies of Jammu District falling within the jurisdiction of Samba District (i.e EMRE Division

Vijaypur (Samba as well as those at 220/132 KV Grid Station Samba (S&O Wing) 33/11 KV Substation managed by Sub- Transmission Division-II Jammu)".

The PIO had to pass an order within maximum stipulated period of time i.e 30 days. However, the PIO informs this Commission that as the information was not held by her, therefore, she transferred the said RTI application to Development Commissioner, Power J&K Srinagar. The appellant received a letter from PIO of the office of Chief Engineer, Maintenance and RE Wing Jammu stating that no posts of Technical III were referred to SSSRB for advertisement and with regard to second limb of information, the information was stated to be nil. The appellant had also filed first appeal before Commr/Secretary to Government Power Development Department, Civil Secretariat, Jammu on 5.6.2013 by fax requesting the FAA for directions to disclose the information. As per provisions of section 16 of the State RTI Act, FAA had to adjudicate the appeal within 30 days or further extendable time of 15 days after recording the reasons why adjudication could not be done within original limit of 30 days. Nothing has been brought on record by FAA to show that he discharged his duties which are legally assigned to him as a public authority. The PIO as well as the appellant has also confirmed that no order has been passed by the FAA. The Commission is informed that the FAA is Secretary Technical i.e Development Commissioner Power J&K. The Commission would like to remind such authority that he is assigned the job of adjudicating the appeals and the failure to perform the public duty is cognizable under Ranbir Penal Code. It is expected that the senior officers of the government would give due regard to the provisions of law and ensure that the right to information given to the people of the state under the State RTI Act 2009 is implemented in letter and spirit.

3. The PIO has also not acted strictly in accordance with the provisions of sections 5 and 6 . The PIO has not made any forwarding to the Development Commissioner, Power. There is some communication by an unknown Under Secretary to Government, Power Development Department who has sent a forwarding letter to Development Commissioner, Power. Under the State RTI Act it is the PIO who is responsible for passing orders or taking other actions like forwarding applications to concerned PIOs or seeking any assistance from any other officer. Therefore, the application of the appellant has remained unattended so far. The Commission has gone through the communication passed by an unidentified PIO, office of Chief Engineer, Maintenance and RE Wing. It is not known how he has responded to forwarding letter from Commissioner/

Secretary's office in Secretariat when that communication was addressed to a public authority. As per provisions of section 5 and 6 any PIO who receives any application from a resident of the State for seeking information has to determine and ascertain with which officer the information actually lies and then forward the same. The Act being public friendly in its nature, appellant is not required to be tossed over from one office to another, thus defeating the very purpose of the State RTI Act. Therefore, the PIO to whom the application is made and received is directed to ascertain the source of information and ensure that information is obtained from him and disclose the same information to the appellant within 15 days time from the receipt of this order.

4. The intent and purpose of State RTI Act is to ensure transparency and accountability in the working of every public authority by disseminating and disclosing information held and obtained by them. The first ingredient of transparency and accountability is that the officers have to identify themselves while signing any order, letters, circulars, notings. Not only has RTI Act laid emphasis on such responsibility but even the State Government before enactment of the State RTI Act through its various circulars starting from 14.7.2004 and latest circular on 10.09.2013 had directed that they should duly write their names above their signatures in orders, circulars etc issued by them. 5. 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 Power Development Department to make compliance vide Commission's decision in a case titled Shri Ghulam Mohammad v/s Superintending Engineer EM&RE Circile I Srinagar on 06.12.2013. 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 15 days from the receipt of this order with regard to compliance made with section 4 of the State RTI Act.

The second appeal is according disposed of subject to above directions

Sd/-

(G.R. Sufi)

State Chief Information Commissioner

Copy to:-

1. Commr/Secretary to Government, Power Dev. Deptt. Civil Sectt. Jammu
2. Secretary Technical-cum-First Appellate Authority, Power Dev. Department.
3. Public Information Officer, Power Dev. Department, Civil Sectt. Jammu
4. Shri Tara Chand Sharma,S/o Late Sh. Kanthu Ram, Village Patti Tehsil
and District Samba.
5. Private Secretary to Chief Information Commissioner.
6. Guard file.

(G.Q. Bhat)
Registrar
State Information Commission