



Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

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Wazarat Road Near DC Office, Jammu, Fax No. 0191-2520947, 2520937

www.jksic.nic.in

File No.SIC/CO/SA/92/2013

Decision No.SIC/CO/SA/92/2013/560

Title:- Shri Riaz-ul-Hassan Malik R/o House No.168, Bethandi Morh, Near
Gulfam Hotel, Narwal Jammu.

V/s

1. First Appellate Authority,
Home Department,
Civil Secretariat, Jammu.
2. Public Information Officer,
Home Department,
Civil Secretariat, Jammu.

Jammu

31-12-2013.

This is second appeal filed by Shri Riaz-ul-Hassan Malik, a resident of the State before this commission on 27-9-2013. As there was certain deficiencies in second appeal of the appellant, therefore, Registry of this commission vide its notice No.SIC/Co/Temp No.154-2013-4409 dated 24-10-2013 issued deficiency letter asked the appellant to remove the deficiencies. The appellant removed the deficiencies vide his fresh communication dated 25-11-2013.

Shri Ashok Kumar Sharma, PIO attended and he has been heard. The FAA did not attend inspite of sending a notice to him and no reasons have been given by him for not complying the requirements of the law. FAA being a senior

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officer is obliged to comply with the notice of the Commission. The Commission is vested with the powers of a Civil Judge while adjudicating a suit and hence all powers are vested in the Commission to enforce the attendance of any authority who has been issued any notice or summon issued by the commission. Therefore, FAA is advised that in future he should adhere to provisions of law.

It is seen from the record that appellant after getting no response on time from the PIO, he had filed first appeal before the FAA i.e Addl. Secretary to Government, Home Department on 13-6-2013. As per section 16 of the State RTI Act FAA had to adjudicate the first appeal within 30 days extendable by further 15 days after recording the reasons for not adjudicating the appeal within the original time. Nothing has been done by the FAA. Failure of FAA who happens to be a senior officer of one of the premier ministries of J&K State i.e Home ministry which is vested with the duties of maintaining law and order, protecting and ensuring security and sovereignty of citizens of the State. Unfortunately, there is even no attempt to explain reasons why such senior authority has failed to discharge his duties which are assigned to him under law. The Commission once again request the senior authorities to respect the law of the land and discharge their duties in accordance with the law.

The brief grounds of the appeal are that the appellant has filed an RTI application under section 6 of the State RTI Act 2009 on 30-3-2013 wherein he wanted information with regard to the fate of FIR which he had filed before the Police Station, Kishtwar for sanction of prosecution under unlawful activities act against the few individuals who had allegedly kidnapped his minor son and allegedly motivating him to join the militant ranks. The PIO disposed of the application vide his order No. Home/RTI/PIO/47/2013/2304 dated 15-4-2013 and information was not given on the plea that the basic fee for obtaining information was not paid in the prescribed form. It

is admitted that this letter was not received because of postal delay. Had FAA adjudicated the first appeal the issue could have been settled and the information seeker would have not been compelled to approach the commission. The information seeker is a resident of one of the remotest village of Kishtwar. The present PIO's predecessor did inform the appellant vide his letter No. Home/RTI/PIO/02/2012/10742 dated 13-9-2013 that "case for accord of sanction for launching prosecution against the accused persons involved in FIR No.242/2010 of Police Station, Kishtwar under ULP(A) was examined and a few deficiencies were noticed and accordingly the DGP has been requested to clarify the deficiencies in the first instance for further appropriate action by the Home Department." The present PIO has now informed the Commission during the hearing that the sanction for prosecution has been obtained and prosecution complaint filed vide prosecution SRO No. 518 dated 16-12-2013. The copy of said SRO has been handed over to the information seeker during the hearing. The information sought has thus been provided.

The appeal is accordingly disposed of.

Sd/-
G.R.Sufi,
State Chief Information Commissioner,
J&K, Jammu.

Copy to the:-

1. First Appellate Authority, Home Department, Civil Secretariat, Jammu.
2. Public Information Officer, Home Department, Civil Secretariat, Jammu.
3. Shri Riaz-ul-Hassan Malik R/o H.No.168, Bethandi Morh, Near Gulfam Hotel, Narwal, Jammu.
4. Private Secretary to HCIC.
5. Guard file.

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