



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

File No: SIC/CO/SA/105/2014

Decision No: SIC/CO/SA/105/2014/569

Title:- Sajad Rasool

V/s

PIO SIDCO(State Industrial Development Corporation)

Jammu

24.01.2014

This is a second appeal filed by Shri Sajad Rasool, a resident of the State before this Commission on 06.12.2013 against the alleged inaction of PIO and FAA of SIDCO for not responding to his RTI application. FAA Shri Mouzzam and PIO Shri Ilham Naseem attended. Shri Sajad Rasool, appellant was also informed vide notice dated: 09.01.2014, issued by the Registrar of this Commission, to be present personally or through the authorized representative to assist the Commission to dispose of his second appeal. He was informed on phone by the office of the Commission. But reportedly he was rude in conversation and the appeal is accordingly being decided. Brief grounds of the appeal are that the appellant filed an RTI application on 3.8.2013. PIO was duty bound to pass an order as expeditiously as possible but not later than 30 days. PIO submitted that the information which is sought has primarily emanated from a decision given by the Munsiff Ist Class Budgam and the appellant should have requisitioned this information under RTI Act from that public authority who was holding and possessing that information. Any how the PIO still complied with the mandate of the Act and

provided information to information seeker vide his order No: SIDCO/Adm/RTI/1012/432 dated: 24.9.2013. The appellant also filed first appeal before the FAA making a plea with the FAA for taking action against the PIO and directing him for disclosure of information. The FAA Shri Mouzzam has submitted before this Commission that his office has not received the first appeal. The Commission has gone through the copy of first appeal that has been attached by the appellant with his papers/documents filed before this Commission. It is found that surprisingly the appellant has not put any date on his first appeal which would have authenticated the date of receipt. However, there is a speed post stamp which shows that first appeal was posted on 10.9.2013. The onus, for proving that appeal was sent by post which was delivered on the FAA, was on the appellant. As he failed to produce such evidence, therefore, the Commission has no evidence to disprove the contents of FAA that he had not received the first appeal. The PIO has passed an order as referred above and attached the copy of the requisite information sought by the appellant. The appellant in his second appeal is also admitting of having receiving some documents which he does not consider to be concerned with his appeal. It will be relevant to know what information was sought by the information seeker in his original application dated: 3.8.2013. The nature of information sought is as under:-

“Copy of court stay order of “M/s Dale Agro India” under proprietor concern under Registration No. 01/04/03290/PMT/Tiny dated: 19.08.2006 manufacturing unit of James juice (out of pulp) caning of vegetable having 4 kanals land at SIDCO Electronic Complex Rangreth”.

The PIO has submitted before this Commission that the appellant wanted copy of said order in case of M/s Dale Agro India. The copy of order that has been given to the information seeker does refer to M/s Dale Agro Industries. PIO further submitted that there is no other order received by SIDCO from the Hon’ble court. It is further submitted by the PIO that there are number of cases where judgements have been received and stay is only in the case relevant to PIO’s order dated: 24.9.2013. As the appellant has not substantiated his plea that he was not given exact information, the Commission is constrained to concur with the stand of the PIO that

the relevant information has been given. It is also a fact that the information seeker was better advised to seek this information from the concerned court who had passed the stay order and who was thus the public authority holding the information.

The Commission has gone through the records and has found that the PIO has not acted as per provisions of State RTI Act and has caused considerable delay in providing information to the appellant. Therefore, penalty proceedings under section 17 of the State RTI Act are initiated against the PIO Shri Ilham Naseem. He is directed to explain why penalty may not be imposed on him for delaying the information to the appellant. This penalty will be reckoned with from the date order was to be passed till the date order is actually passed and information is provided. His reply, if any, must reach this Commission within 15 days from the date of receipt of this order. 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: 14.7.2004 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. Besides, Public Authority of SIDCO i.e Commr/Secretary Industries and Commerce Department is requested to arrange for the training of the officers on RTI as most of the officers are unaware about the provisions of the

State RTI Act. The information seeker is also advised that he should use the Act in the spirit for which it is enacted. He should seek information, if any, from the original source from which it has emanated.

Sd/-

(G.R. Sufi)

State Chief Information Commissioner

Copy to:-

1. Commr/Secretary to Govt. Industries & Commerce Department, Civil Sectt. Jammu
 2. First Appellate Authority, State Industrial Development Corpn.(SIDCO) Jammu
 3. Public Information Officer, J&K SIDCO, Jammu
 4. Shri Sajad Rasool S/o Gh. Rasool, R/o 231, Raithan Khansaheb, Budgam-191111
 4. Private Secretary to Chief Information Commissioner
 5. Guard file.
- (G.Q. Bhat)
Registrar
State Information Commission