



Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

Old Assembly Complex, Srinagar, Fax No. 0194-2506662, 2506661

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

www.jksic.nic.in

File No: SIC/CO/SA/274/2015

Decision No: SIC/ CO/SA/274/2015/780

Appellant : Showkat Ahmad Bhat
Respondent : PIO Consumer Affairs & Public Distribution Deptt.
Date of hearing : 05-08-2015
Date of Decision: 05-08-2015
Chief Information Commissioner: G.R. Sufi
Referred Sections: Section 6, 7 of the J&K RTI Act, 2009.
Result: Appeal allowed/ disposed of.

Shri Showkat Ahmed Bhat, a resident of the State has approached this Commission with an appeal under Section 16 of the J&K State RTI Act, 2009, seeking a direction to the Secretary CAPD to provide him information which he had sought vide his RTI application dated: 8.4.2015. Deputy Secretary CAPD-PIO Shri Riyaz Ahmed Malik attended hearing. Appellant also attended.

Facts

The appellant states that he did not receive any response from the PIO within the stipulated time. On failure of the PIO to provide information, he preferred first appeal before the FAA i.e Secretary CAPD on 22.5.2015 which was received in his

office on 5.6.2015. PIO has strongly rebutted the contention of the appellant by stating that the

..2..

application under section 6 of the J&K State RTI Act, 2009 was not accompanied by the fees as prescribed under section Section 6 r/w Rule 3 of the J&K RTI Rules of 2012. Thereafter, an intimation was sent to the appellant vide an official communication under No: CAPD/RTI/15/2015 dated: 16.4.2015. Vide this letter, the attention of the information seeker was invited to Rule 3 of J&K RTI Rules, 2012 which made it incumbent on any information seeker to deposit a fees of Rupees Ten crediting that fees in the name of Accounts Officer of the public authority. The appellant was advised to deposit the said fees in accordance with the said rule so that information is provided to him. Nothing was heard from the appellant. Again he was informed to deposit the said fees in accordance with the rules when he preferred first appeal. Instead of responding to these communications from the PIO and FAA, he preferred an appeal in this Commission. It seems that the appellant had preferred appeal to the Commission pre-maturely i.e without exhausting the statutory time available with the FAA for adjudicating the appeal. Nothing has been brought before the Commission to show that FAA had discharged his duties cast on him under Section 16 of the J&K State RTI Act, 2009. The Government functionaries who are saddled with the responsibility of providing the information or adjudicating the first appeal are not merely administrative authorities for disposal of RTI applications. They have to act as quasi judicial authorities as well. This is standard principle of law that there cannot be any delegation of judicial powers to any junior or any other person unless it is statutorily clearly laid down. It seems that Additional Secretary, CAPD Mr. Ramesh Chander has abdicated his duties and directed his junior to dispose the request of the appellant. The said FAA is advised that in future he should desist from doing the same. He should properly and in accordance with law adjudicate the appeals which are filed before him in the capacity of FAA under the RTI Act.

Decision

The Commission has gone through the original RTI application of the appellant which is on the records of the PIO CAPD. It is apparent that the basic fees

of rupees ten has not been deposited in the way it has to be deposited in accordance with the law. For the appellant it may be a technical mistake but for upholding the force of law, the

..3..

Commission cannot allow admission of such RTI applications by the PIO(s) if the information seekers don't adhere to the spirit of law. Nothing has been brought before the Commission by the appellant to prove that he had followed the provisions of the law as laid in the Section 6 r/w Rule 3 of the J&K RTI Rules of 2012. However, the appellant insisted before this Commission that he had not received any intimation from the PIO for depositing the fee in accordance with Rule 3 of the J&K RTI Rules 2012. After hearing both the PIO and the appellant, the Commission has directed the PIO to provide information within 15 days after the appellant is to deposit fee of Rupees Ten in the name of Accounts Officer of the public authority.

Sd/-
(G.R. Sufi)
J&K State Chief Information Commissioner

No: SIC/CO/SA/274/2015
Dt: 05 - 08 -2015

Copy to:

1. First Appellate Authority, CAPD Deptt. Civil Sectt. Srinagar
2. Public Information Officer, CAPD Deptt. Civil Sectt. Srinagar
3. Shri Showkat Ahmed Bhat, S/o Shri Ghulam Mohammad Bhat, R/o Frestabal, Pampore, -192121
4. PS to Chief Information Commissioner
5. Guard file.

(G.Q. Bhat)
Registrar
State Information Commission