



Jammu and Kashmir State Information Commission
(Constituted under The Right to Information Act, 2009)
Wazarat Road, near DC Office Jammu, 0191-2520947, 2520937
Old Assembly Complex, Srinagar, 0194-2506660, 2506661
www.jksic.nic.in

File No. SIC/K/SA/47/2016
Decision No. SIC/K/SA/47/2016/29

Appellant : Sh. Mohammad Shafi Chahci S/o Nizam-ud-Din Chachi R/o Handwal Nachyan Karnah Distt. Kupwara

Respondent : SE Hydraulic Circle Kupwara

Date of Registration : 11.04.2016

Date of Decision : 18.05.2016

Brief facts of this case are that appellant filed Second Appeal on 29.02.2016 (admitted after completion of deficiencies on 11.03.2015) stating that he requested PIO O/o SE Hydraulic Circle District Kupwara H.Q. Handwara vide application dated 21.12.2015, but he got no response from the said department. Thereafter, he submitted First Appeal to SE on 19.01.2016, but till date requisite information has not been provided. He has accordingly requested the Commission to direct the concerned authorities to provide the requisite information and also action under rules may be initiated for not providing information in time.

SE Hydraulic Circle Kupwara has filed reply/counter statement dated 07.05.20.15 interalia submitting that RTI application received in his office on 28.12.2015, was transferred to PIO/ T. O. with SE Hydraulic Circle Kupwara on 29.12.2015, who further marked it to Dealing Assistant Mr. Altaf Hussain on 29.12.2015. That First Appeal to FAA/SE Hydraulic Circle Kupwara on 27.01.2016 was marked to PIO/To to Se Hydraulic Circle Kupwara for providing information to the applicant. That the applicant was asked to attend circle office on 15.02.2016 to deposit Xerox charges vide letter dated 05.02.2016, but the applicant did not turn up.

As per RTI application enclosed with the appeal, information has been sought regarding seniority list, DPC's order copies, roaster register of reservation maintenance from 1995 onwards and photo copy of service book of one Mr. Mohammad Altaf (Establishment Clerk) in the circle office. In the reply/counter statement of SE, it is nowhere mentioned that appellant was asked to deposit photocopy charges prior to 5.2.2016. The respondents produced copy of letter 05.02.2016, under which the appellant has been asked to receive the information and remit Xerox charges.

As per Section-7(3)(a) of the RTI Act, the PIO is required to send intimation for depositing of fee within a period not exceeding 30 days from the date of receipt of RTI application. As per reply/counter statement of SE/FAA the RTI application has been marked to PIO/TO with the SE Hydraulic Circle Kupwara on 29.12.2015 and therefore this intimation should have been sent to the applicant by or before 29.01.2016. However, it is nowhere mentioned that an intimation has been sent to him to deposit the fee. Therefore, as per provisions of the Act, the appellant is entitled to

information free of cost. Also, PIO/TO to SE is liable for initiation of action under Section-17 of the Act.

In view of the above, the Commission directs PIO O/O SE Hydraulic Circle Kupwara to provide the information in respect of Point-1 as per record to the appellant within one week. Further, in respect of Point-3, PIO is directed to provide copies of all orders of appointment and promotion of Mr. Mohammad Altaf (Establishment clerk) in the circle office.

As regards delay, PIO submitted during proceedings that he sought assistance of concerned Dealing Assistant under Section 5(4) of the Act, who caused the delay in providing the information. Therefore, prima facie Dealing Assistant concerned, Shri Altaf Hussain is deemed as PIO under Section 5(5) of the Act.

Therefore, Mr. Mohamamd Amin Shah PIO/TO to SE Hydraulic Circle Handwara and Mr. Altaf Hussain Dealing Assistant O/o SE Hydraulic Circle Kupwara H.Q Handwara is directed to explain as to why penalty proceedings shall not be initiated against them under Section 17 of J&K RTI Act for failure to provide required information to the appellant within prescribed period under the Act. Their explanation, if any, should reach the Commission within two weeks along with compliance report.

The appeal filed before the Commission is disposed of with the above directions.

Sd/-
(Nazir Ahmed)
State Information Commissioner

Copy to the:-

1. Superintending Engineer Hydraulic Circle Kupwara
2. PIO/Technical Officer to SE Hydraulic Circle Kupwara
3. Pvt. Secy to HSIC (K) Superintending Engineer Hydraulic Circle Kupwara
4. Sh. Altaf Hussain Dealing Assistant in the O/o SE Hydraulic Circle Kupwara H.Q Handwara
5. Sh. Mohammad Shafi Chahci S/o Nizam-ud-Din Chachi R/o Handwal Nachyan Karnah Distt. Kupwara

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