



**J&K State Information Commission  
Wazarat Road, Near D.C. Office, Jammu /  
Old Assembly Complex, Srinagar.**

File No. SIC/CO/SA/366/2016  
Decision No. SIC/CO/SA/366/2016/904

Appellant : Dalbir Singh Jamwal  
Respondent: School Education Department.  
Date of Institution: 11-04-2016  
Date of Decision: 23-05-2016/  
State Information Commissioner: Er. Nazir Ahmad  
Decision: Appeal disposed of.

1. Brief facts of the case are that appellant filed 2<sup>nd</sup> appeal before the Commission on 11-04-2016, stating PIO deliberately denied information as asked in RTI application dated: 09-12-2015. That appellant filed first appeal before FAA, but appellant was neither taken into confidence nor given an opportunity of hearing, as per provisions of RTI Act, was provided. That FAA directed Director, School Education, Jammu to supply information vide his letter dated: 26-02-2016, but till date, neither FAA nor Director, School Education, Jammu provided the information. Accordingly, Appellant has prayed for providing information as asked vide RTI dated: 09-12-2015 and PIO be penalized for deliberately denying information.

2. Mr. Manu Gupta, FA/CAO-cum-FAA, School Education Department, Civil Secretariat and Ms. Naseema Nazir, Under Secretary-cum-PIO, School Education Department, Civil Secretariat attended hearing at Srinagar office. Chief Education Officer, Jammu, Shri Joginder Sharma and appellant, Mr. Dalbir Singh Jamwal heard through video conferencing from Jammu office.

3. In compliance to the notice of the Commission, Ms. Naseema Nazir, PIO, School Education Department, Civil Secretariat has filed reply/counter statement on 27-04-2016, interalia submitting that application received on 09-12-2015 was transferred to PIO, Directorate of School Education, Jammu vide letter dated: 20-01-2016 with request to provide information directly to the appellant. Thereafter, first appeal filed before FAA, School Education Department, Civil Secretariat was responded to by FAA, School Education Department, Civil Secretariat vide letter dated: 26-02-2016, informing appellant to get status of the case from PIO, Directorate of School Education, Jammu. FAA/FA&CAO, School Education Department has filed reply, interalia submitting that appellant should have contested the letter dated: 26-02-2016 of FAA, in case of any grievance on account of wrong transfer of application by PIO, School Education to PIO, Directorate of School Education, Jammu and should have filed first appeal before FAA, Directorate of School Education, Jammu against PIO, Directorate of School Education, Jammu. That appellant neither contested the letter dated: 26-02-2016 nor intimated the status of FAA and also did not file first appeal before FAA, Directorate of School Education, Jammu, but instead filed 2<sup>nd</sup> appeal in the Commission.

4. As per documents submitted before the Commission, information sought has been responded to by Shri J.K.Sudan, Chief Education Officer, Jammu (PIO) vide his letter dated: 12-03-2016, wherein, in response to point 1 of application, he has enclosed copy of government order as sought by the appellant. In so far as point 2 of application is concerned, appellant has been informed that it pertains to "Higher Authorities." Perusal of the order referred above, reveal that this order has been issued by Additional Secretary to Government, School Education Department, Civil Secretariat. The Appellant pleaded that order has been issued by the administrative department of School Education in the Civil Secretariat, therefore, file pertaining to this case should ordinarily be on record of Education Department. PIO, School Education, Civil Secretariat submitted that despite their best efforts, the concerned file could not be traced and that is why, she transferred RTI application to PIO, Directorate of School Education, Jammu. However, Commission cannot accept the verbal statement of the PIO, unless documentary evidence is produced before the Commission, regarding

weeding out / destruction of records, etc. It is possible that this case file have been maintained by the Directorate of School Education, Jammu also. Therefore, PIO, School Education Department, Civil Secretariat and PIO, Directorate of School Education, Jammu are directed to make efforts to trace the record as asked in RTI application and inform appellant accordingly. In case, no record is traced, both PIO's shall file affidavit before the Commission within 02 weeks with copy to the appellant.

5. In so far as, disposal of first appeal is concerned, Commission uphold the plea of FAA, School Education Department, Civil Secretariat. The RTI application was transferred to PIO, Directorate of School Education, Jammu with copy to the appellant. Therefore, appellant should have filed first appeal before designated FAA in the Directorate of School Education, Jammu, as per section 16 of the Act. Therefore, there is no cause of action against FAA, School Education Department, Civil Secretariat for non deciding of first appeal.

6. With above directions and observations, the appeal filed before the Commission is disposed of.

Sd/-

**(Er. Nazir Ahmad)**

State Information Commission

Dated: -05-2016

No. SIC/CO/SA/366/2016

Copy to the:-

1. FAA, School Education Department, Civil Secretariat, J&K, Srinagar.
2. FAA, Directorate of School Education, Jammu.
3. PIO, School Education Department, Civil Secretariat, J&K, Srinagar.
4. PIO, Directorate of School Education, Jammu.
5. Pvt. Secretary to HSIC.
6. Shri Dalbir Singh Jamwal S/o Hira Singh Jamwal R/o Bhalwal, District Jammu.
7. Guard file.

(G.Q.Bhat)

Registrar,

J&K, State Information Commission