



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/J/A/72/2016

Decision No. SIC/J/A/72/2016/370

Appellant : Smt. Melo Devi

Respondent : FAA/Director, Stores Procurement Department
Jammu
PIO/Deputy Director (Central),
Stores Procurement Department, Jammu

Date of Registration : 25.07.2016

Date of Decision : 31.08.2016

Brief Facts:

The appellant Smt. Melo Devi filed 2nd appeal stating that she filed an application under RTI Act on 08.03.2016 seeking certain information.

Aggrieved by the non-response of PIO within the stipulated period, she filed First Appeal before the First Appellate Authority on 04.05.2016 through registered post. She further submitted that a letter was received from Assistant Public Information Officer, Public Works (R&B) Department dated: 17.05.2016 by which the respondent No. 2 forwarded appeal to respondent no. 1.

In view of the above appellant has prayed the Commission to direct the respondents to furnish the demanded information to the appellant forthwith and impose penalty for non-furnishing information to the applicant as prescribed under the RTI Act.

Proceedings:

In compliance to notice of the Commission dated: 25.07.2016, Er. V.K. Arora (APIO) Deputy Director (Central) Stores Procurement Department, Jammu filed counter statement interalia submitting that he is posted as Deputy Director, in the office of Chief Engineer/Director Stores Procurement Department, J&K Jammu and is APIO for the department. That the Chief Engineer/Director, Stores Procurement Department, J&K Jammu is designated as First Appellate Authority for the Department. That while going through the records for preparing the counter statement he realized that application attached with the appeal is dated: 08.03.2016 while as applications received in his office were dated: 13.02.2016 and 20.02.2016 and application dated: 08.03.2016, have never been received in his office. That the application dated: 08.03.2016 has inadvertently been referred to, whereas his office has made reply to the application dated: 20.02.2016. That information provided vide letter dated: 17.03.2016 covers few aspects of information sought vide application dated: 08.03.2016. That information as asked vide this application and as available has been produced along with copy of Service Book.

During proceedings in the Commission on 01.08.2016, the case was adjourned with following directions:

- 1. "PIO filed reply/counter statement to the appeal dated: 30.07.2016 before the Commission today.**

- 2. Since appellant did not attend the hearing, the case is adjourned with the directions to the PIO to send copy of reply/counter statement to the appellant through prescribed mode of service within two days.**
- 3. The appellant may file rejoinder, if any, within ten days of receipt of reply/counter statement from PIO.”**

On 31.08.2016, Sh. V.K. Arora, Deputy Director (Central), Stores Procurement Department, Jammu-cum-APIO and appellant Smt. Melo Devi alongwith her counsel Sh. Mohd. Latief Malik attended the hearing.

In compliance to the directions of the Commission conveyed vide notice dated: 11.08.2016, Counsel for the appellant has filed objections, interalia, submitting that respondent No. 1 i.e. Deputy Director (Central), Stores Procurement Department, Jammu intentionally and deliberately didn't furnish the desired information alleging that qualification certificate of Sh. Sohan Lal at the time of getting employment is fake and the same is not verified. He has further submitted that statement of respondent No. 1 that application dated: 08.03.2016 was not received by him is false because the same was addressed to the correct address and delivered through registered post and received by the respondent No. 1. That the FAA did not dealt with the matter in the right perspective and he has not passed a speaking order but, simply forwarded the application to respondent No. 1 with directions to provide the desired information to the appellant directly but even thereafter respondent No. 1 did not furnish the information to the appellant thereby compelling the appellant to approach the Commission with 2nd appeal. That the aversions made by the respondent that application dated: 08.03.2016 has not been received cannot be accepted because the same was posted to the correct address through registered post. He has accordingly requested the

Commission that exemplary fine be imposed on the respondents as they have willfully and deliberately didn't adhere to the provisions of the Act.

During proceedings in the Commission, Executive Engineer submitted that he has already explained his case in the reply/counter statement filed before the Commission vide letter dated: 30.07.2016 alongwith enclosures. The Executive Engineer submitted that information as asked for by the appellant has been sent to him under letter dated: 01.08.2016. The appellant acknowledged receipt of the same and submitted that information as asked for has been provided to him. Accordingly, no further action is warranted in so far as information is concerned.

The Executive Engineer informed that he is the designated APIO and the designated PIO is stationed at Srinagar even though Director, Store Procurement is permanently stationed at Jammu. The Commission wonders as to what restrained Director, Store Procurement from designating Deputy Director, Store Procurement or any other officer based at Jammu as PIO. As per provisions of section 5 of the Act, every public authority shall designate as many officers as PIO's in all administrative units under it. It is evident that Jammu based office of Store Procurement Department is a separate administrative unit.

Accordingly, Director, Store Procurement is directed to designate the Deputy Director (Central) or any other officer as PIO in his office at Jammu. Similar action be taken in respect of other subordinate offices at District Headquarters.

In the instant case, the RTI application has been posted to the address of Deputy Director, Store Procurement and information asked for has been given by him on 01.08.2016. Therefore, as per provisions of section 5(4) (5) he is a deemed PIO. In view of the above, Commission provides an opportunity to Er. V.K.

Arora, Deputy Director (Central) Stores Procurement Department, Jammu to explain as to why proceedings under section 17 of the Act shall not been initiated against him for delay in responding to the RTI application. His explanation, if any, should reach the Commission within 02 weeks.

The appeal is accordingly disposed of with above directions.

Sd/-
(Er. Nazir Ahmad)
State Information Commissioner

No. SIC/J/A/67/2016-

Dated: -09-2016

Copy to the:-

7. FAA/Director, Stores Procurement Department Jammu
8. PIO/Deputy Director (Central), Stores Procurement Department, Jammu
9. Pvt. Secretary to HSIC.
10. Smt. Melo Devi W/o Sh. Nikka Ram R/o Hakkal, P.O. Satwari, Tehsil & Distt. Jammu
11. Guard File.

(Sheikh Fayaz Ahmad)
Registrar,
J&K, State Information Commission