



**Jammu and Kashmir State Information Commission**

شہن یشن کمیٹ انفارمی ر اسٹی ن ڈ کشمی جموں ا  
(Constituted under the Right to Information Act, 2009)

**Wazarat Road, near DC Office Jammu, 0191-2520947, 2520937  
Old Assembly Complex, Srinagar, 0194-2506660, 2506661**

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File No. SIC/K/SA/10/2017

Case No. SIC/K/SA/10/2017/11

**FINAL ORDER**

Appellant : Sh. Zakir Hussain.  
Respondents : First Appellate Authority (FAA) O/o  
Deputy Commissioner, Kargil,  
Public Information Officer (PIO)/  
Chief Planning Officer Kargil.  
Date of decision : 06.06.2017  
Decision : Appeal disposed of.

**I. Brief facts of the case:**

The brief facts of the case are that the appellant Sh. Zakir Hussain filed 2<sup>nd</sup> appeal before the Commission on 02.03.2017 against Deputy Commissioner, Kargil cum First Appellate Authority (FAA) and Public Information Officer (PIO)/District Chief Planning Officer, Kargil. The appellant has stated that the PIO has failed to provide him the information sought vide application dated 26.08.2016 despite lapse of stipulated period. Thereafter, FAA/DC Kargil has not made a single communication with him within the stipulated period. The appellant has requested the Commission to impose penalty upon the PIO with direction to the respondents to provide the requisite information.

As per the records of the 2<sup>nd</sup> appeal the appellant has filed RTI application dated 26.08.2016 before the PIO/District Planning Officer Kargil for seeking information on seven items related to proposed works, amount released, utilized etc. of elected/ nominated counselors of Ladakh Autonomous Hill Development Council (LAHDC), Kargil, MLA's, MLC's, and MP's from year 2008 to 2016. The appellant has also enclosed a copy of certificate issued by Assistant Director Consumer Affairs and Public Distribution Department, Kargil as evidence of being a member of BPL category. Thereafter, appellant filed first appeal before FAA/Deputy Commissioner Kargil dated 31.10.2016 on the ground that PIO has not responded to his RTI application within the stipulated time of 30 days. Later on the appellant filed the 2<sup>nd</sup> appeal against the inaction of FAA and PIO.

## II. **Proceedings before the Commission:**

In response to the notice of Commission, Chief Planning Officer, Kargil has filed reply/ counter statement to 2<sup>nd</sup> appeal dated 22.03.2017. In his reply PIO has submitted that RTI application of the appellant was received on 29.08.2016 and vide letter dated 20.09.2016 the information seeker was intimated to submit a copy of ration card/original copy of the BPL certificate for verification before providing information free of cost as provided under the RTI Rules.

The 2<sup>nd</sup> appeal was initially listed for hearing on 15.05.2017. The parties did not attend the hearing and accordingly hearing of the appeal was adjourned with directions to list the case on the next available date. The appeal was again listed for hearing on 06.06.2017. Sh. Padma Londup, Chief Planning Officer Kargil-cum-PIO and Sh. Zakir Hussain, appellant attended the hearing. Parties were heard at length. During the hearing, the PIO submitted copy of the reply/ counter statement to 2<sup>nd</sup> appeal from Deputy Commissioner, Kargil/CEO-cum-FAA. In his reply/ counter statement FAA has interalia submitted that the first appeal of the appellant was not brought in to his notice by the concerned dealing assistant and has assured that such act shall not be repeated in future.

## III. **Decision:-**

On perusal of records of the 2<sup>nd</sup> appeal it transpires that the appellant has filed the first appeal dated 31.10.2016 before Deputy Commissioner, Kargil-cum-FAA through post on 03.11.2016. There is no evidence on record that FAA has taken cognizance or has made any communication with the appellant regarding the first appeal. The FAA in his reply/ counter statement dated 01.06.2017 has stated that the first appeal of the appellant was not brought into his notice by the concerned dealing assistant.

Keeping in view the frank assertion of the FAA/DC, Kargil, the FAA is directed to hear the appellant and peruse his original RTI application and ensure provision of information to the appellant within a period of 21 (twenty one) days from the date of issue of this order subject to exemptions, if any, as provided under the J&K RTI Act, 2009. The items of information listed in the RTI application pertain to the development works, public funds released, sanctioned and utilized etc. In fact, one of the most important objectives of the RTI Act is to bring transparency in the Public Authorities and Government and, therefore, development related information needs to be provided immediately when asked for. This will improve the delivery of developmental programmes and schemes. On the other hand, holding back information which is not covered by the exemptions is a big violation of the letter and spirit of the Act.

As regards failure of the officials of the DC office Kargil to put up the first Appeal to the FAA/DC, Kargil, this is regrettable and the said officials could be proceeded against under Section 17 of the J&K RTI Act, 2009 read with section 5(5) of the Act. However, keeping in view the frank admission of DC, Kargil and reposing faith in him to set the house in order by way of

streamlining the RTI cell in his office, no such proceedings will be initiated at this stage. Future aberrations will be dealt with strictly under law. The DC, Kargil is therefore recommended to take immediate necessary action to improve and streamline the functioning of the RTI Cell in his own office and other district offices of Kargil district and to be careful in future.

With these directions the appeal is accordingly disposed of.

Copy of this decision be given free of cost to the parties.

**Sd/-**

**(Khurshid A. Ganai)** IAS Retd.

Chief Information Commissioner

**Copy to:**

1. FAA/Dy. Commissioner Kargil
2. PIO/Chief Planning Officer Kargil
3. Pvt Secy to HCIC J&K Srinagar
4. Appellant-Sh. Zakir Hussain S/o Anayat Ali C/o Youth Action Committee  
Baroo Kargil
5. Office file

**(Sheikh Fayaz Ahmad )**

Registrar

J&K State Information Commission