



Jammu and Kashmir State Information Commission

جموں اینڈ کشمیر اسٹیٹ انفارمیشن کمیشن

(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/29/2017

Decision No. No. SIC/K/SA/29/2017/14

Appellant : Mr. Abrar Gul

Respondent : First Appellate Authority (FAA)/Public Information Officer (PIO) Directorate of School Education Kashmir (DSEK)

Date of Registration : 08.05.2017

Date of Decision : 19.06.2017

Brief Facts:

Brief facts of the case are that the appellant Shri Abrar Gul filed 2nd appeal before the Commission on 17.04.2017 against First Appellate Authority DSEK (Joint Director Education) and PIO/Chief Education Officer (CEO), Srinagar. The appellant has alleged that after receiving an unsatisfactory reply to his RTI application from PIO/ CEO (Srinagar), he filed First Appeal before FAA on 27.02.2017. That instead of getting any response from FAA, he received a copy of communication from CEO, Srinagar through which Principal Hr. Secondary School, Amira kadal Srinagar was directed to send to the appellant a direct reply to all the queries. The said Principal did not reply to any of the queries instead asked the appellant to see her in her office. The appellant requested the Commission to direct the concerned respondents to

provide him the information and take necessary action against them for failing to perform their duty under the RTI Act.

As per the records, the appellant vide RTI application dated 23.11.2016 sought information from PIO/CEO (Srinagar) on seven items/queries pertaining to Hr. Secondary School Amira Kadal, Srinagar. Thereafter, the appellant filed First appeal before FAA/DSEK on 27.02.2017 on the grounds that PIO has not responded to all the queries of the RTI application and the information received by him is misleading and incomplete. Vide letter dated 11.03.2017 the Principal Hr. Secondary School Amira kadal informed the appellant to attend personally in his/her office and take each and every record needed by him. Aggrieved by the response of the aforesaid Principal, the appellant filed the instant 2nd Appeal. On scrutiny of documents, some deficiencies were found, which were completed by the appellant on 08.05.2017. The appeal was accordingly admitted.

Proceedings:

In response to notice of the Commission, FAA/DSEK filed reply/counter statement on 01.05.2017 interalia submitting that Chief Education Officer, Srinagar was directed vide letter dated 23.03.2017 to obtain information from Principal Govt. Girls Hr. Secondary School Amira kadal Srinagar and provide the same to appellant. Chief Education Officer Srinagar/PIO vide his reply dated 25.05.2017 has submitted that the requisite information has been provided to the appellant through registered post on 19.04.2017.

The 2nd appeal was heard by the Commission today on 19.06.2017. Shri Saif Ali Chohan Jt. Director FAA DSEK, Shri Farooq Ahmad Chief Education Officer cum PIO and appellant Shri Abrar Gul attended the hearing. During the hearing, the PIO submitted that all the information sought by the appellant has been provided to

him. The appellant admitted to have received the information after filing of 2nd Appeal, but alleged that with respect to queries 5, 6 and 7 of his original RTI application to the PIO, complete information has not been provided. Further, he alleged that FAA had neither asked him to appear before him nor passed an order in the first appeal submitted before him on 27.02.2017.

Directions:

During proceedings, it came to fore that the PIO has not strictly followed the procedure under Section 6 & 7 of the J&K RTI Act, 2009 for the PIO's, which shows ignorance on the part of the PIO and also lack of application of mind. Similar view can be taken about the FAA; the FAA has also to give opportunity of being heard and hear both the parties and pass a speaking order. The FAA has passed orders without adopting due procedure as per Section 16 of the Act. It seems that both FAA and the PIO are ignorant about the RTI rules, resulting the applicant to land with 2nd appeal in the Commission, as he was not satisfied by the information provided by the PIO. During proceedings, the applicant alleged that he has still not received information with respect to queries/paras 5, 6 and 7 of his RTI application. The PIO is accordingly directed to collect complete information and compile a fresh reply to provide the information to the appellant pertaining to paras 5, 6 and 7. This may be done within a period of three weeks from the date of issue of this order.

Further, by way of recommendation in terms of Section 22(5) of J&K RTI Act, 2009, the Director School Education is advised to conduct a seminar on the implementation of the RTI Act in for the officers of the School Education Department at the level of CEO's, ZEO's and Sr. officers of the School Education sooner than later at the first available opportunity, to create appropriate awareness among the officers about the provisions of the J&K RTI Act, 2009, duties and responsibilities and the FAA and the implementation procedure laid down in the Act

and the RTI Rules 2012. The resource persons will be got provided from the IMPA as well as from the State Information Commission (SIC).

With these directions, the appeal filed before the Commission is disposed of.

Copy of this order be also sent to Director School Education Kashmir for appropriate follow up action.

Sd/-
(Khurshid A. Ganai) IAS Retd
Chief Information Commissioner

Copy to:

1. Director School Education Department, Kashmir
2. Jt. Director/FAA Directorate of School Education Department Kashmir
3. PIO/Chief Education Officer Srinagar
4. Pvt Secy to HCIC J&K Srinagar
5. Appellant-Sh Abrar Gul S/ Ghulam Mohammad Baigh, R/o Gulistan Colony, Gulab Bagh, Srinagar
6. Office file

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