



Jammu and Kashmir State Information Commission

شنیشن کمیٹی انفارمیری اسٹیٹ کاشمیر 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

www.jksic.nic.in

File No. SIC/J/A/17/2017

Decision No. SIC/J/A/17/2017/24

Final Order

(Second Appeal)

- Appellant : Sh. A.S. Slathia, Advocate
- Respondents : First Appellate Authority (FAA)/Superintending Engineer, EM&RE Circle, Kathua and Public Information Officer (PIO)/Executive Engineer, EM&RE Division, Vijaypur (Samba).
- Date of Registration : 11.04.2017
- Date of Decision : 11.07.2017

Brief Facts:

This is a second appeal filed under section 16 (4) of the J&K Right to Information Act, 2009 (hereinafter Act for short) in the J&K State Information Commission by Sh. A.S. Slathia, Advocate, J&K High Court, Jammu admitted on 11.04.2017. The appellant interalia submitted that he had filed an RTI application with the PIO, O/o. Assistant Executive Engineer, EM&RE Sub-Division, Vijaypur on 04.08.2016 seeking the following information:

- i. Status report regarding recovery measures against M/s. Vishav Oil Industry situated at Gurha Slathia having sanctioned load of 1.5 HP vide installation No. 5400 dated: 09.11.2015 for an amount of Rs. 1,69,476/- which is outstanding.
- ii. Status report of communication No. EDV/RS/6935-38 dated: 14.03.2016 with regard to challan in the matter of recovery under section 50 etc. has been submitted before the Hon'ble Court of Electricity Magistrate, Surankote. Kindly provide the next date of hearing in the above said challan/case.
- iii. Status report of communication No. EDV/RS/5030-31 dated: 07.12.2015 with regard to challan in the matter of recovery under section 50 etc. has been submitted before the Hon'ble Court of Electricity Magistrate, Jammu for recovery of electricity arrears under section 50 of the J&K Electricity Act, 2010. Kindly provide the next date of hearing in the above said challan/case.
- iv. Kindly provide the information that how much arrears of electricity has been paid to your good self till date and how much arrears of the electricity is pending against M/s. Vishav Oil Industry.

That the requisite information was not provided by the PIO despite expiry of the prescribed period under section 7(1) of the Act. That aggrieved by the non furnishing of the information sought for, he preferred First Appeal on 07.09.2016 before the Chief Engineer, EM&RE Wing, Canal Road, Jammu who vide his communication dated: 01.10.2016 forwarded the same to the Superintending Engineer, EM&RE Circle Kathua/FAA for disposal. That the FAA in his communication dated: 23.11.2016 had not appreciated the questions mentioned in the RTI application, which were not replied to by the PIO, even after the expiry of the stipulated time which constrained him to knock the doors of the Commission.

Proceedings:

The case came up for the hearing before the Commission on 11.07.2017 through Video Conferencing from Jammu office of the Commission. Hearing was attended by Sh. Sandeep Seth, Superintending Engineer, EM&RE, Circle Kathua/FAA and Sh. Ashok Kumar Gupta, Executive Engineer, EM&RE Division, Vijaypur (Samba)/PIO. The appellant absented himself.

During the course of the hearing the FAA/Superintending Engineer, EM&RE, Circle Kathua and PIO/Executive Engineer, EM&RE Division, Vijaypur submitted that they have provided part information to the appellant but are willing to provide a fresh set of information as per the original RTI application except the details about the next date of hearing which is a prerogative of the courts. The Superintending Engineer also submitted that the appellant (applicant in the original RTI application) is basically interested in depositing the arrears but is not willing to follow the departmental procedure which is prescribed in the matter. He further stated that the department is also interested in the recovery of arrears but is constrained to follow the procedure laid down in the departmental rules.

Decision/Directions:

After considering the contents of the second appeal submitted by Sh. A.S. Slathia, Advocate, J&K High Court and the submissions made by the Superintending Engineer and the Executive Engineer during hearing on 11.07.2017 and also vide their communication No. SEK/RTI/375-77 dated: 20.05.2017 and

No. EDV/RS/14-16 dated: 01.04.2017, it transpires that the issue of recovery is pending adjudication in the courts of Special Mobile Magistrate Jammu and Mobile Magistrate (Electricity) Surankote (Poonch) under various challans. The department is apparently not willing to settle the issue of arrears through an out of court settlement in view of the pending adjudication before the two learned Mobile Magistrates. However, on the submission of the FAA and PIO regarding their readiness to provide the copy of the status reports as at sub-paras A, B and C of the original RTI application submitted on 04.08.2016, it was directed that such status reports shall be provided if they are not hit by section 8(I)(b) of the Act. As regards the dates of hearings as at paras B & C of the original RTI application, the argument of the respondents was accepted that the next dates of hearings depends on the court orders i.e. this could not have been provided by the department as it is the prerogative of the courts to fix the next date of hearing. In any case, the RTI being of August, 2016, this piece of information has already become redundant and vintage. However, there is no objection in conveying the dates of hearings in the courts mentioned above if the department is in know of the next dates of hearings.

By way of recommendation under section 22(5), the Chief Engineer, EM&RE, Jammu is advised to examine the system of handling RTIs in his department in Jammu Division and to take steps to streamline the procedures in terms of the RTI Act, 2009

and the rules thereof. RTI Cells duly staffed by officials who are well versed with the provisions of the Act and the rules be set up in each electrical division. Since awareness about the J&K RTI Act, 2009 and the J&K RTI Rules, 2012 seems to be not up to the mark, efforts may be made by the department to raise the awareness level through seminars, workshops and specific training sessions including training courses conducted by J&K IMPA.

With these directions the second appeal is disposed of.

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

Sd/-

(Khurshid A. Ganai) IAS Retd.

Chief Information Commissioner
J&K State Information Commission

No: SIC/J/A/17/2017_____

Dated: . .2017

Copy to:

1. Registrar, J&KSIC for information and necessary action.
2. Chief Engineer, EM&RE, Jammu for information and necessary action.
3. FAA/Superintending Engineer, EM&RE Circle, Kathua for information and necessary action.
4. PIO/Executive Engineer, EM&RE Division, Vijaypur (Samba) for information and compliance.
5. Private Secretary to HCIC for information of the HCIC.
6. Appellant/Sh. A.S. Slathia, Advocate, J&K High Court, Jammu for information.
7. Office file.

(Rita Koul)

Deputy Registrar
J&K State Information Commission