



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

(FINAL ORDER)

File No. SIC/K/SA/44/2017

Decision No. No. SIC/K/SA/44/2017/**45**

Appellant : Advocate Malik Mohammad Mushtaq

Respondent : First Appellate Authority (FAA)/
Superintending Engineer, Hydraulic
Circle Pulwama, Hqrs, Shopian, Public
Information Officer (PIO)/Assistant
Executive Engineer Flood Control
Sub-Division, Pampore

Date of Registration : 20.07.2017

Date of Decision : 06.10.2017

Brief Facts:

This instant 2nd appeal came up for hearing today on 06.10.2017. The appeal has arisen out of an RTI application submitted by one Shri Malik Mohammad Mushtaq, Advocate on 03.02.2017 to the PIO/Assistant Executive Engineer, Flood Control Sub-?Division,

Pampore and the First Appeal filed with the FAA/Superintending Engineer, Hydraulics/Irrigation and Flood Control Division, Pulwama, Hqrs Shopian on 05.05.2017.

During the hearing, it transpired that the AEE I&FC Divisions Pampore is not the PIO of the Division and therefore the RTI application has been mis-directed. The said AEE informed during the hearing that he is neither the PIO nor has he been designated as the APIO and that it is the Executive Engineer, I&FC Kakpora who is the PIO for the Division. He further submitted that he has joined as AEE in the Sub-Division, Pampore recently in August, 2017 and although not a PIO, he has collected and compiled the information sought for and got it handed over to the RTI applicant. It also transpired during the hearing that the FAA has neither heard the appellant nor disposed of the First Appeal with any order or direction for providing the requisite information.

After hearing the parties, it is directed that the most appropriate course of action at this stage is to transfer the RTI application of the appellant to the concerned PIO i.e., the Executive Engineer, I&FC Division, Kakpora for providing the information to the appellant. The said PIO should do it within a maximum period of 30 days after the receipt of this order.

Taking cognizance of the fact that the FAA has neither heard the appellant nor issued any order in the First Appeal, it is best to report

this matter of the non-performance of assigned duties under the J&K Right to Information Act, 2009 read with the relevant orders of the Administrative Department regarding designating SE Hydraulics as FAA to the Administrative Department of the PHE, I&FC Department for further necessary action at their level. It is also for the information of the said Administrative Department that the SEs of Hydraulics having been designated as FAAs under the J&K RTI Act, 2009, have been generally found to be lackadaisical in their approach towards disposal of First Appeals under the J&K RTI Act, 2009 and have often been observed to be either not disposing of the First Appeals or delaying passing of orders. This lackadaisical attitude of the SEs has derailed the implementation of the J&K RTI Act in the Department at the cutting edge level with adverse consequences for transparency and accountability.

In terms of Section, 22(5) of the J&K RTI Act, 2009, the State Information Commission recommends to the Administrative Secretary, PHE, I&FC Department, Government of J&K, Secretariat, Srinagar to take appropriate steps immediately to seek conformity with the provisions of the J&K RTI Act, 2009 at all levels in the Department.

With the above directions and observations, the 2nd appeal filed before the Commission is disposed of. The Registry will send a copy of the RTI application to the PIO i.e., Executive Engineer, I&FC Division, Kakpora along with this order for further necessary action. Copy of this order be also sent to the FAA/SE (Hydraulic) Circle Pulwama Hqrs

Shopian and Commissioner/Secretary to Government, PHE I&FC Department, Government of J&K, Civil Secretariat Srinagar

With these directions, the 2nd appeal filed before the Commission is disposed of.

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

Copy to the:-

1. Commr/Secretary to the Government, I&FC Department, Civil Secretariat Srinagar
2. FAA/SE (Hydraulic) Cirilce Pulwama Hqrs Shopian
3. PIO/ Executive Engineer, I&FC Division, Kakpora
4. Appellant- Malik Muhammad Mushtaq (Advocate) C/o Munsif Court Pampore R/o Drangbal Pampore
5. Office file

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