



**Jammu and Kashmir State Information Commission**  
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**Old Assembly Complex, Srinagar, 0194-2506660, 2506661**  
[www.jksic.nic.in](http://www.jksic.nic.in)  
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File No. SIC/CO/SA/508 /2017  
Decision No. SIC/CO/SA/508/2017/**1030**

### **Final order**

Appellant: Shri Anayat Ullah R/O Kalai Tehsil  
Haveli, District Poonch.

Respondents: First Appellate Authority (FAA)/ Public  
Information Officer (PIO) Directorate of  
Technical Education Department.

Date of Registration : 18.09.2017

Date of Decision : 04-12-2017

### **Brief Facts:**

This 2<sup>nd</sup> appeal filed by Shri Anayat Ullah under Section 16(4) of the J&K RTI Act, 2009 came up for hearing today on 04.12.2017. Brief facts are that the appellant Shri Anayat Ullah filed an RTI application on 20.03.2017 with the Public Information Officer (PIO), O/o Directorate of Technical Education Deptt. J&K. The appellant alleged that he had not received any reply from the PIO concerned. Aggrieved by the non-response of the PIO, he filed the 1<sup>st</sup> Appeal 17.05.2017 with the First Appellate Authority (FAA) of the Technical Education Department. The FAA demitted office shortly after and the new FAA appointed on 26.09.2017 conducted two hearings in the 1<sup>st</sup> Appeal on 10.10.2017 and 13.10.2017. However, despite the conduct of 1<sup>st</sup> appeal hearings, no relief was provided to the appellant forcing him to file 2<sup>nd</sup> Appeal on 15.7.2017. The 2<sup>nd</sup> Appeal came for hearing today on 04.12.2017. PIO, Directorate of Technical Education Department and the appellant attended the hearing however, FAA was absent. During the hearing appellant submitted that despite lapse of nearly 09 months since filing of the RTI application, no information has been received.

The PIO submitted that despite his best efforts and efforts of the FAA, the concerned Section in the Department did not provide the information.

On perusal of the documents in the file, it revealed that the PIO had been writing to Deputy Director(Trgs.) and Assistant Director(SDM) Trgs. for the information but without any response. The communications sent in this regard by the PIO are on file. Moreover, the FAA has indentified Shri A.R.Shah (HA) as the dealing Assistant in whose custody the record pertaining to this RTI application was lying and who had to prepare the information being available on the record. The FAA even allowed him one day on the last occasion to provide the requisite information to the PIO for onward transmission, but again without success.

Keeping in view the details as mentioned above and despite efforts of the PIO and two hearings conducted by the FAA, information has not been provided by the office to the PIO and in turn to the appellant/applicant. Non provision of information calls for imposition of penalty on the PIO. But the PIO has put forth the defense that he sought information from DD(Trg), and AD (SDM) and also Shri A.R.Shah, HA, who attended the 1<sup>st</sup> Appeal hearings but could not get a reply. He submitted before the State Information Commission (SIC) that the fact is that all these officers namely DD(trgs), AD(Trgs) and Shri Shah, HA have to be treated as deemed PIOs under Section 5(5) of the J&K RTI Act,2005 and must be held accountable for their conduct in terms of the Act.

## **Decision**

**From the statements of the PIO and records on file, there is evidence that the PIO has failed to provide the information as other officials in the department who were incharge and in custody of the said information did not provide to him the same resulting in loss suffered by the RTI applicant. The officials identified as such are Shri Mohammad Iqbal Kohli, Dy.Director (Trgs), Shri Ab.Rashid Sheikh, Asstt.Director (SDM) and Shri A.R.Shah, Head Assistant.**

**It is also necessary to issue orders for provision of information. Since the PIO has expressed his inability, it will be appropriate to direct the Public Authority i.e, Head of the Technical Education Department to have the information provided to the appellant.**

**Accordingly, in terms of Section 17 the following four officers/officials of the Tech. Education Department are given the opportunity of being heard and called upon to explain as to why penalty may not be imposed upon them under Section 17 for not**

**providing the information in time and for intentionally withholding the information without any ground or basis:**

- 1. Shri Mohammad Iqbal Kohli, Dy. Director (Trgs).**
- 2. Shri Mohammad Sharief Parray, Dy. Director (PIO)**
- 3. Shri Ab.Rashid Sheikh, Asstt. Director (SDM).**
- 4. Shri A.R. Shah, Head Assistant.**

**The Director Technical Education Department, J&K ( Head of the Public Authority) is directed to have the requisite information provided to the appellant within 15 days from the date of receipt of this order and also to give reasons as to why compensation may not be awarded to the appellant in terms of Section 16 (9)(b) for the detriment suffered by him. The Director, Technical Education shall take steps to train the officials of the Department in the matters and specifically in the implementation of the J&K RTI Act,2009 and J&K RTI Rules,2012. The said Director shall also ensure effective implementation of the provisions of Section 4 of the J&K RTI Act for suo-moto and mandatory disclosure of information as the RTI application in question and this resultant 2<sup>nd</sup> appeal indicates poor state and status of suo-moto disclosure of information within the Technical Education Department.**

**With these observations and directions, this 2<sup>nd</sup> appeal filed before the State Information Commission is disposed of.**

The copy of Order be provided to the parties free of cost.

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

Copy to :-

1. Director, Technical Education Department, J&K-Jammu.
2. First Appellate Authority (FAA), O/o Directorate of Technical Education Department, J&K Jammu.
3. Public Information Officer (PIO) O/o, Directorate of Technical Education Department, J&K Jammu.
4. Pvt. Secy. to CIC for information of the HCIC.
5. Shri Anayat Ullah R/O Kalai Tehsil Haveli, District Poonch – 185101.
6. Office Order file.

( Sheikh Fayaz)  
Registrar  
State Information Commission  
J&K-Jammu