



**Jammu and Kashmir State Information Commission**  
Wazarat Road, near DC Office Jammu, 0191-2520947, 2520937  
Old Assembly Complex, Srinagar, 0194-2506660, 2506661

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File No. SIC/CO/SA/524 /2017  
Decision No. SIC/CO/SA/524/2017/1032

### **Final order**

Appellant: Shri Mohammad Aqib Lankar  
S/O Shri Jan Mohammad Lankar,  
R/O Moominabad Bye-Pass,  
Batamaloo lane No.05, Near new  
District Court Complex, Srinagar

Respondents: First Appellate Authority (FAA)/ Public  
Information Officer (PIO) J&K Academy of  
Art, Culture and Languages.

Date of Registration : 17.08.2017

Date of Decision : 14-12-2017

### **Brief Facts:**

This Second Appeal has arisen out of RTI application of Shri Mohammad Aqib Lankar submitted to the PIO of the J&K Academy of Art, Culture and Languages (Cultural Academy) dated 22.12.2016 regarding the Three year Urdu Calligraphy course. The applicant has asked information on five points which are in detail but essentially seek information about the nomenclature (Certificate and Diploma), affiliation of the JKAAC&L to any State or Central University/Authority, Two year Urdu Calligraphy courses/circular/ Govt. Order regarding approval to the Two year Urdu calligraphy course and its relevance to the JKAACL run Three year Urdu calligraphy course and finally the eligibility to enroll in the JKAAC&L Calligraphy course by Diploma/Degree holders from other recognized University/College/Institution etc.

That after filing of 1<sup>st</sup> Appeal before the First Appellate Authority (FAA) on 1.07.2017, he has received a communication from I/C Calligraphy vide dated

06.02.2017 who is otherwise not competent under the RTI Act to provide him the information directly, not being a PIO. After that, the PIO vide his communication dated 25.02.2017 provided some point-wise information to the appellant, followed by another communication dated 22.07.2017 in which PIO enclosed the Hon'ble Supreme Judgment titled CBSE & Anr. VS Aditya Bandopadhyay & Ors. wherein PIO stated that the application does not fall under the ambit of RTI Act.

Aggrieved by the response of the respondents the appellant stated that the respondents have contravened the express provisions of the J&K RTI Act,2009 and are liable to be dealt with under the provisions of law. The appellant also alleged that the PIO has wrongly invoked the Supreme Court Judgment as it does not apply to his RTI. He alleged that they are trying to avoid him and to appoint some other candidate/applicant to the job in the Department of Culture. The appellant prayed in his 2<sup>nd</sup> appeal that impugned decision/communication dated 22/07/2017 be set aside with the direction to the respondents to provide him the requisite information without any further delay.

### **Proceedings before the Commission**

After hearing both the parties at length and perusal of record on file, It transpires that the FAA/PIO have failed to provide information to the appellant within the stipulated time frame. Non provision of information calls for imposition of penalty on the PIO under Section 17 of the J&K RTI Act,2009. However some information has been provided to the appellant on 06<sup>th</sup> June,2017 which was however, incomplete and provided by I/C Calligraphy who was not authorized to act on behalf of the PIO in terms of Section 7 (1) of the J&K RTI Act. The PIO also submitted counterstatement during the proceedings which was taken on record.

Time period for disposal of this 2<sup>nd</sup> appeal was extended by another 60 days w.e.f 17.10.2017 in terms of powers vested in the SIC under Section 16 (11) of the J&K RTI Act,2009 to ensure continuation of hearings for final and judicious disposal of the appeal.

### **Directions**

***The PIO, JKAAC&L is directed to prepare a point-wise reply based on records of the Academy and provide the same within a period of 21 days from the date of receipt of this Order.***

***In terms of the powers vested in the State Information Commission under Section 16(9)(a), the Public Authority, JKAAC&L i.e, Secretary,***

**JKAAC&L is directed to take cognizance of the functioning of the RTI cell in the Academy and take concrete remedial measures for streamlining the working of the RTI cell. Besides, the officers appointed in the Organisation, as PIO and FAA must be given proper training and orientation for handling and disposing of the RTI applications and appeals.**

**The appellant/RTI applicant Shri Mohammad Aqib Lankar has submitted the RTI application in December,2016 and the first response of the PIO, J&KAAC&L is dated 25.02.2017 and even till date, complete information has not been provided. Delay in providing information and providing incomplete information amounts to violation of Section 7(1) and other provisions of the J&K RTI Act. Accordingly, in terms of Section 17 the PIO, JKAAC&L is given the opportunity of being heard and called upon to explain as to why penalty may not be imposed upon him under Section 17 for not providing the information in time and for withholding part of the information without any ground or basis.**

**Registry (SIC) is directed to issue notice against the PIO, J&KAAC&L separately for penalty proceedings under Section 17 of the J&K RTI Act,2009.**

**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. Secretary, Jammu&K Academy of Art, Culture and Languages, Jammu/Srinagar.
2. First Appellate Authority(FAA), O/o J&K Academy of Art, Culture and Languages, Jammu/Srinagar.
3. Public Information Officer (PIO) O/o, J&K Academy of Art, Culture and Languages, Jammu/Srinagar
4. Pvt.Secy. to CIC for information of the HCIC.
5. Shri Mohammad Aqib Lankar
6. S/O Shri Jan Mohammad Lankar,R/O Moominabad Bye-Pass, Batamaloo lane No.05, Near new, District Court Complex, Srinagar
7. Office Order file.

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