



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/87/2017

Decision No. SIC/K/SA/87/2017/**101**

Appellant: Sh. Raman Koul S/o Mohan Lal Koul
R/o Lal Chowk, Anantnag A/P C/o K.J.
Koul, H. No. 9, Sector 1A,
Lakshmipuram Chonore, Bantalab,
Jammu

Respondents: 1. FAA/Deputy Commissioner,
Anantnag
2. Public Information Officer
(PIO)/Assistant Commissioner
(Revenue), Anantnag

Date of Registration : 02-11-2017

Date of Decision : 06-02-2018

Final Order

Brief Facts:

Brief facts of the case are that the Commission received 2nd appeal of the appellant Shri Raman Koul against FAA/Deputy Commissioner, Anantnag and PIO/Assistant Commissioner (Revenue), Anantnag. The appellant in his 2nd appeal has

submitted that he had submitted the RTI application by registered post on 05-04-2016 and he received its response on 21-02-2017 much after expiry of 30 days. As the appellant was not satisfied with the response dated 21-02-2017, the appellant filed the first appeal on 14-03-2017 before the First Appellate Authority but he failed to dispose of the same. The appellant has alleged that the information/reply received by him is incomplete. The appellant requested the Commission to issue direction to the FAA to decide the first appeal and take strict action against the PIO with direction to provide the complete information to the appellant.

As per the records enclosed with the 2nd appeal, the appellant vide RTI application dated 05-04-2016 has sought information regarding six points mentioned in the said application. **Thereafter** against the inaction of PIO, appellant filed First appeal before FAA/DSEK on 03-03-2017. After filing of First appeal the appellant received information from the PIO/CEO Kulgam vide letter dated 31-03-2017. Not satisfied with the reply of PIO, appellant filed the 2nd appeal before Commission on 09-05-2017. On scrutiny of documents some deficiencies were noticed and the 2nd appeal was returned to

appellant for doing the needful. The appellant completed the deficiency on 28-06-2017 and the 2nd appeal was accordingly admitted.

Proceedings before the Commission:

In response to notice of Commission dated 10-07-2017, PIO/Chief Education Officer, Kulgam filed reply/counter statement to 2nd appeal dated 18-07-2017 submitting that the appellant had not filed the RTI application before him on 19-01-2017, however he received the same as annexure with First appeal received from FAA/office of DSEK. Further, PIO has submitted that in response to said First appeal, the information was provided to appellant on 01-04-2017 under proper receipt, besides the detailed factual report regarding the matter has been submitted to Director School Education Kashmir vide letter dated 31-03-2017 with copy to appellant. The FAA/DSEK in his reply/counter statement has reiterated that information as per records available stands provided to appellant by the PIO vide letter dated 31-03-2017.

The second appeal was partly heard by the Commission on 07-08-2017. The hearing was adjourned interalia with following observation:-

“At this stage of proceedings in the 2nd appeal, the truth about the receipt of the basic RTI application in the CEO/PIO’s Office on 21.01/2017 needs to be unraveled as the appellant is insisting having submitted the application and has also enclosed a receipt (Receipt No. 2409/17 dated

21.01.2017), whereas the PIO/CEO vide his letter dated 18.07.2017 has denied having ever received the RTI application in the CEO Office Kulgam. The truth can be unraveled through a fresh enquiry by the new CEO/PIO and inspection of CEO Office documents. Accordingly, the CEO/PIO is directed to conduct a fresh enquiry and bring the required documents to the next hearing before this Commission”.

The second appeal came up for hearing today on 31-08-2017. Sh. Saif Ali Chouhan FAA/Jt. Director, DSEK attended the hearing. In compliance to directions of the Commission, the PIO/CEO Kulgam submitted written explanation dated 30-08-2017. In the instant explanation, the PIO has submitted that he assumed the charge of CEO Kulgam on 30-07-2017, personally perused the records relating the mater and found that the information has been provided to the appellant on 01-04-2017 under proper receipt. The PIO further stated that the RTI application dated 19-01-2017 has been received in the office of CEO Kulgam on 21-01-2017. The counsel for the appellant admitted to have received the information on 01-04-2017, however submitted that the information is incomplete, misleading, vague and without any records.

Decision:

Heard parties at length and perused records of the 2nd appeal. The appellant has filed the RTI application dated 19-01-2017 in the office of CEO Kulgam on 21-01-2017 under proper receipt. The application has remained pending in the office of PIO and has been responded only vide communication of CEO

Kulgam addressed to DSEK dated 31-03-2017 with copy to appellant received by him on 01-04-2017. The PIO has failed to dispose of the RTI application within stipulated period of time as provided under Section 7 of J&K RTI Act, 2009. The Second appeal is disposed of with following directions

1. The Chief Education Officer, Kulgam (PIO) is directed to go through the original RTI application of the appellant and the reply/response of the then PIO Mr. Abdul Rouf Shamiri presently CEO Budgam and provide the balance information to appellant within 15 days from the date of receipt of this order;
2. The RTI application has been received in the office of PIO on 21-01-2017 and the PIO has failed to dispose of the said application within stipulated period of time provided under Section 7 of J&K RTI Act. As such, the then CEO/PIO Mr. Abdul Rouf Shahmiri presently CEO Budgam is directed to explain as to why action under section 17 of the J&K RTI Act, 2009 shall not be taken against him. His explanation shall reach the Commission within two weeks from the receipt of the order.
3. The Community expects the Education Department to be the first runner in leading a way forward as compared to other departments as far as implementation of the RTI Act is concerned. The minimum we expect from the Education Department is to bring awareness at the district/zonal level about the provisions of the RTI Act, 2009. The information seekers be provided information sought by them as per their RTI applications within stipulated time period of 30 days from the date of receipt of RTI application by the PIO

as per the provisions of the J&K RTI Act, 2009. The Directorate of School Education must spread awareness among its officials as well as its officers and seminars/Roundtables must be convened within the department so that the PIOs/APIOs of the Education department are able to deal with the RTI application as per the provisions of the J&K RTI Act, 2009. We expect that the FAA will take these directions seriously.

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

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

Copy to the:-

1. Assistant Commissioner Development, Kupwara (FAA)
2. Public Information Officer (PIO)/Block Development Officer, Wavoora, Kupwara
3. Mr. Asif Iqbal Khan S/o Gh. Qadir Khan R/o Kandhar Kuligam, Lolab, Kupwara

(M. S. BHAT)
Deputy Registrar,
J&K State Information Commission, Sgr