



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

File No. SIC/J/A/229/2018

Decision No. SIC/J/A/229/2018/**175**

Final Order

Appellant : Sh. Dev Raj

Respondent : Public Information Officer (PIO)
O/o Dy. Commissioner, Jammu

Date of Registration : 12.02.2018

Date of Decision : 15.03.2018

Brief Facts:

This 2nd appeal has arisen out of RTI application dated 09.11.2017 filed before the PIO O/o Dy. Commissioner, Jammu. In view of non-receipt of the reply from the PIO, the applicant filed the First Appeal before the Addl. Commissioner O/o Divisional Commissioner, Jammu who has mistakenly entertained the First Appeal and even informed the appellant to appear before her on 04.01.2018 vide letter dated 28.12.2017. Subsequently, the appellant has filed the 2nd appeal before the State Information Commission (SIC) on 19.01.2018. The 2nd appeal was finally admitted on 12.02.2016 after

completion of deficiencies and came up for hearing today on 15.03.2018. The appellant and the respondents attended the hearing through video conferencing from Jammu Office of the SIC.

During the proceedings, the FAA O/O Divisional Commissioner, Jammu submitted that she disposed of the First Appeal filed by the appellant before her on 04.01.2018 informing the appellant vide letter dated 28.12.2017 that he has to approach the right forum i.e., the FAA in the O/O DC Jammu.

After hearing the parties and from the perusal of the record it transpires that the appellant has not approached the correct First Appellate Authority (FAA), which in this case is either DC Jammu or ADDC/ADC Jammu as per the distribution of work in the O/O DC Jammu. The appellant has approached the FAA in the Divisional Commissioner, Jammu due to lack of knowledge and inaction of the PIO of the O/O DC Jammu.

Section 16(1) of the J&K RTI Act states as under:

"Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of Section-7, or is aggrieved by a decision of the Public Information Officer, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Public Information Officer, in each public authority."

Section 16(4) states a under;

"A second appeal against the decision under sub-Section (1) shall lie within ninety days from the date on which the decision

should have been made or was actually received, with the State information Commission;

Provided that the State Information Commission may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time”.

From the reading of the provisions of Section-16, it is clear that the 2nd appeal under the J&K RTI Act cannot be entertained unless the appellant has approached the FAA under Section 16(1). In this case, the appellant has not approached the correct FAA and therefore he needs to do that. Accordingly, this 2nd appeal is disposed of with the directions to the appellant to approach the FAA in the o/o DC Jammu in terms of Section 16(1) and file a fresh 2nd appeal in the SIC if the FAA fails to decide the First Appeal or the appellant is not satisfied with the disposal as is provided under Section-16.

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

Copy to the:

1. FAA/Addl. Commissioner, O/o Divisional Commissioner, Jammu
2. FAA O/o Dy. Commissioner, Jammu
3. ACR/PIO O/o Dy. Commissioner, Jammu
4. Appellant-Sh. Dev Raj S/o Lt. Sh. Ram Dass R/o Daskal Tehsil Akhnoor Distt. Jammu

(Sheikh Fayaz)
Registrar
J&K State Information Commission