



Jammu and Kashmir State Information Commission

شنیشن کمیٹی انفارمیشن اسٹینڈ کشمیر جموں ا

(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/31/2016

Decision No. . SIC/K/SA/31/2016/07

Appellant : Sh. Gh. Qadir Wani S/ o Ab. Gani Wani
R/o Baragam Tral

Respondent : PIO/Tehsildar Awantipora

Date of Registration : 09.03.2016

Date of Decision : 20.04.2016

Brief facts of the case are that appellant filed a Second Appeal under Sub Section (4) of Section 16 of the Act on 29.02.2016 against PIO/Tehsildar Awantipora and FAA/Deputy Commissioner Pulwama. Some deficiencies were found in the Second appeal and these were conveyed to the appellant on 02.03.2016. The appellant completed deficiencies on 19.03.2016.

The appellant has submitted that he filed an application under RTI Act, 2009 before PIO/Tehsildar Awantipora on 12.11.2015 seeking information regarding conversion of Abi Awal land along with Khewat No's, Survey No's etc. from K. Koot to Barsoo on National Highway, steps taken by authorities to stop such unlawful practice, number of Popular trees which fall

within the periphery of four land along with Khasra No's, name of agency in felling down the trees and expenditure incurred on such drive and whether the said amount has been remitted in the Government Treasury. That respondent Tehsildar Awantipora failed to furnish the information within the time specified without any reasonable cause. That the appellant preferred First Appeal before Deputy Commissioner Pulwama on 22.12.2015. That FAA vide letter dated 29.12.2015 asked respondent No.1 for reasons for delay/refusal in furnishing the information and directed him to show cause the delay/refusal by or before 02.01.2016 and appellant was also directed to cause appearance. That this communication was received by the appellant on 04.01.2016 and therefore he was unable to cause his appearance on 02.01.2016. However, later when the appellant visited the office of FAA he was told that his application was rejected.

In view of above submissions, it is prayed that disciplinary Action as mandated under law be recommended against the PIO/FAA, respondents be directed to provide requisite information without further loss of time, compensate appellant for loss and detriment suffered by him and any other order or direction which the Commission deems fit and proper.

Respondent Mohammad Maqbool PIO/Tehsildar Awantipora, Counsel for appellant Advocate Bakhat Parvaiz and appellant appeared before the Commission. In his reply/counter statement to the Second Appeal Tehsildar Awantipora vide his communication dated 06.04.2016 has denied that he has received the RTI application on the basis of which appeal has been filed in the Commission. In support of the averments made by him, he has enclosed attested copies of Receipt Register from 11.11.2015 to 30.11.2015 maintained by his office for perusal of the Commission. He has further

submitted that in response to the notice of the FAA, Tehsildar appeared before the FAA and submitted in writing that no such application was received by his office. Consequently, the appeal was dismissed by the FAA vide order dated 16.01.2016. Teshidar has concluded that in light of the facts of the case, the instant appeal be dismissed being devoid of any merit and substance.

On the other hand, the appellant submitted that the RTI application has been sent through speed post on 14.11.2015 and produced receipt of Indian Post. He also submitted that the post office verbally informed that the letter has been delivered on 16.11.2015. Upon perusal of the Receipt Register, it has been noted that there is no entry in the Receipt Register on 16.11.2015 submitted by the Tehsildar Awantipora. The Commission checked the tracking system of Indian Post on the Website regarding delivery of the consignment. However, the consignment details against Speed Post No. EE82048356 0 1N. has not been found in the website. Therefore there is no evidence to prove that this RTI application has not been received by Tehsil Office Awantipora even though appellant has send it through speed post.

As per Section-7 of the Act, PIO on receipt of a request under Section-6 shall, within 30 days of receipt of request, either provide the information on payment of fee or reject the request.....

In the instant case, the PIO has not received the application and therefore no action shall lie on him as per provisions of the Act.

In view of the above, Tehsildar Awantipora is directed to entertain the RTI application of the applicant after the appellant deposits prescribed fee

and proof thereof is produced before the Tehsildar and dispose of the RTI application as per provisions of Section (7) of the Act expeditiously.

With the above directions, the appeal filed before the Commission is disposed of.

Sd/-
(Nazir Ahmed)
State Information Commissioner

Copy to the:-

1. FAA/Deputy Commissioner Pulwama
2. Tehsildar Awantipora
3. Pvt. Secy to HSIC (K)
4. Gh. Qadir Wani S/ o Ab. Gani Wani R/o Baragam Tral

(M S Bhat)
Dy. Registrar,
State Information Commission
J&K Srinagar