



Jammu and Kashmir State Information Commission

شنیشن کمی انفارم ٹی ر اسٹی نڈ 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/J/A/274/2016

Decision No. SIC/J/A/274/2016/307

Appellant : Sh. Surinder Singh, S/o Late Sh. Anirudh Singh
R/o. Village Vijaypur, Tehsil and Distt. Reasi

Respondent : FAA DC Reasi/ PIO, ACR Reasi

Date of Registration : 18 .03.2016

Date of Decision : 09 .05.2016

1. Brief Facts:

Brief facts of the case are that Commission received Second Appeal on 15.02.2016 from appellant Shri Surinder Singh. Some deficiencies were found in the documents, which were conveyed to appellant on 03.03.2016, these were completed and appeal admitted on 18.03.2016. Appellant has submitted RTI application dated: 15.05.2015 filed before PIO/ACR Reasi which has not been responded. Thereafter, the appellant filed First Appeal before FAA/DC Reasi on 16.06.2015, which was disposed of by FAA/DC Reasi vide order dated: 14.09.2015, informing appellant that the desired information of five villages i.e., for the period from 1971 to 2012 will be

provided to him through Naib Tehsildar, who is designated authority under Public Service Guarantee Act (PSGA), 2011, but the desired information has not so far been supplied to him. It is also stated that vide letter dated: 11.01.2016, the appellate authority cum Deputy Commissioner, Reasi was requested to supply the copy of rule under which information cannot be supplied under J&K RTI Act, 2009. But till date no reply has been received from Deputy Commissioner, Reasi. The appellant has requested the Commission to look into the matter sympathetically and punish the guilty officer under J&K RTI Act 2009.

2. Proceedings:

In response to notice of the Commission, Mr. Ravinder Kumar FAA/DC Reasi filed reply/counter statement dated: 02.05.2016, relevant extracts of which pertaining to RTI application dated: 15.05.2015 (under appeal) is as under:-

I. *The application was transferred to Tehsildar Reasi vide No.DC/Rsi/N/538-39 dated: 26.05.2015 to furnish the information to the applicant under intimation to this office. The applicant was intimated by Naib Tehsildar Reasi vide his No.378-79/NTR dated: 19.06.2015 to furnish the Khasra No's. of the land pertaining to which the information had been sought by him.*

II. *The applicant filed an appeal before FAA (Deputy Commissioner Reasi) on 16.06.2015. The First Appeal was forwarded to Tehsildar Reasi vide No.DC/Rsi/N/1172-74 dated: 24.07.2015, with the direction to furnish information directly to the applicant within two days. The copy of letter was also forwarded to the applicant with request to attend the office of FAA on 04.08.2015 (copy enclosed). Another letter vide No.DC/Rsi/N/1251 dated 07.08.2015 was issued to the applicant to appear before the Court of FAA on 17.08.2015 (copy enclosed)*

III. That FAA/DC Reasi passed an order dated: 14.09.2015, operative part of which is as under:-

However, as the service sought by applicant (copies of Revenue record of five villages for the period w.e.f. 1971 to 2012) is of the nature deemed to be provided in a time bound manner under Public Service Guarantee Act, therefore, the same is being forwarded to Naib Tehsildar Reasi, who is designated authority under PSGA, 2011, with the direction to provide the service (copies of Revenue record of five villages for the period w.e.f. 1971 to 2012) within the prescribed time period for the same under PSGA. For the purpose of calculation of time period of providing the said service which in this case 30 days, the date of passing of this order shall be taken as the 1st day and the gazetted holidays shall be excluded. In order to uphold the mandate of PSGA in letter and spirit, Addl. Deputy Commissioner shall suo moto proceed the instant case as 1st appeal under PSGA, if the service is not delivered in time bound manner.

IV. *That Naib Tehsildar Reasi vide letter dated: 09.3.2016 has intimated the applicant to deposit the fee in Government Treasury so that the copies of the land records can be issued to him. The applicant neither deposited the fee nor attended the office of Naib Tehsildar Reasi for seeking the extracts of revenue records from 1971 to 2012.*

In view of the above, FAA has prayed that appeal be dismissed as it is devoid of merit.

Heard FAA & PIO via video conferencing and perused records. Appellant did not attend the hearing.

3. Conclusion:

In the instant case, the appellant has sought information regarding revenue documents. Naib Tehsildar has not denied this information, but has only asked

appellant to mention Khasra No's. It is therefore evident that information sought is held by the Public Authority, but could not be provided because Specific Khasra No's have not been mentioned. Clearly, the information sought falls within the definition of "Information" as per Section 2(d) and "*Right to Information*" under Section 2(i) of RTI Act. Merely because accessing such information (defined as services in PSGA) can be accessed under PSGA, the citizen cannot be denied this information under RTI Act subject to other provisions of the Act, in view of overriding effect of Section-19 of J&K RTI Act, 2009, which is reproduced hereunder:

"the provisions of the Act shall have effect notwithstanding anything inconsistent therewith contained in the State official Secrets Act, Samvat 1977, and any other law for the time being in force or in any instrument having effect by virtue of any law other than the Act."

In view of the aforesaid reasons, the order of the FAA that information sought does not fall under RTI Act 2009 is not in accordance with provision of RTI Act. Therefore, FAA/DC Reasi is advised to adjudicate/decide such type of appeals strictly in accordance with provisions of RTI Act, 2009.

It is a known fact that Revenue records are maintained according to Khewat No's/Khasra No's, based on which revenue extracts can be accessed. Therefore, the communication of Naib Tehsildar requesting appellant to provide Khasra No's is in accordance with the provisions of the Act. Further, such extracts have to be provided as per procedure laid down in Land Revenue Act, but within the period prescribed under RTI Act, 2009. However, the appellant has neither acknowledged receipt of this communication in his Second Appeal nor respondents have submitted any documentary evidence regarding dispatch of this information to information seeker.

In view of the above, the appeal filed before the Commission is disposed of with directions to PIO/Tehsildar Reasi to dispose of RTI application in reference to communication of Naib Tehsildar dated: 19.06.2015, within one week of receipt of this order.

Further, Tehsildar Reasi is directed to explain as to why penalty proceedings under Section 17 of the Act shall not be initiated against him for delay in disposal of the RTI application, which has been transferred to him under Section 6(3) of RTI Act by PIO/ACR Reasi vide letter dated: 26.05.2015. His explanation in this regard should reach the Commission within two weeks from receipt of this order.

The appeal is accordingly disposed of with above directions.

Sd/-

(Er. Nazir Ahmed)

State Information Commissioner

Date: .05.2016

No: SIC/J/A/274/2016

Copy to:

1. FAA/Deputy Commissioner, Reasi.
2. PIO/Assistant Commissioner Revenue, Reasi.
3. PIO/Tehsildar, Reasi for compliance.
4. Private Secretary to Hon'ble State Information Commissioner (K), J&K State Information Commission for information.
5. Appellant/Sh. Surinder Singh, S/o. Late Sh. Anirudh Singh, R/o. Village Vijaypur, Tehsil & District: Reasi, Correspondence Address: 5047, Sector 38 (West) Chandigarh, Pin code: 160014.

(Renu Mahajan)

Joint Registrar

J&K State Information Commission