



**J&K State Information Commission
Wazarat Road, Near D.C. Office, Jammu /
Old Assembly Complex, Srinagar.**

File No. SIC/J/A/28/2016
Decision No. SIC/J/A/28/2016/336

Appellant : Shri Thakur Virender Singh
Respondent: SDM/FAA, Jammu/Tehsildar/PIO, Bhalwal.
Date of Institution: 07-05-2016
Date of Decision: 07-06-2016/
State Information Commissioner: Er. Nazir Ahmad
Decision: Appeal disposed.

1. Brief facts of this case are that appellant filed 2nd appeal before the Commission on 02-05-2016, stating that he filed an RTI application before Tehsildar Bhalwal on 18-02-2016, seeking information pertaining to khasra numbers of land occupied for installation of electric poles all along from Burh to Dhan-Chanochan on 33 kv line passing from Burn to Jagti. That Tehsildar, Bhalwal/PIO while responding to all points of RTI application, has categorically mentioned that no record is available in the office. Thereafter, he filed first appeal in the office of SDM, Jammu/FAA. That in response to first appeal, SDM, Jammu/FAA (North) stated that information required by the appellant would involve demarcation of land and this service could only be availed under relevant provisions of law by payment of requisite fee. Appellant further submitted that lands on which electric poles have been erected belong to inhabitants of the above villages and no compensation in lieu of land has been paid to these inhabitants and this RTI application was an initiative to seek the information so as to provide relief to these inhabitants through lawful means. Appellant had asked about khasra numbers of lands which are available in the records of Revenue Department but to his dismay, PIO and FAA refuse to divulge the information. Appellant further submitted that since SDM admitted that this is matter of demarcation, khasra numbers of land are the natural consequence of demarcation and the appellant is seeking the same.

2. Ms. Anvy Lavasa, SDM/FAA, Jammu (North), Shri V.K.Sharma, Tehsildar, Bhalwal/PIO and the appellant Mr. Thakur Virender Singh attended hearing through video conferencing from Jammu office of the Commission.

3. As per RTI application enclosed with the appeal, information has been sought at 05 points. Whereas, information at point 1-4 relates to details of poles installed along 33 kv line, khasra numbers of land occupied under the poles and total number of poles installed. Tehsildar Bhalwal/ PIO has responded to the RTI application vide letter dated: 15-03-2016 and informed appellant that in respect of information sought at point 1-4, no records are available in the office. With regard to point 5, i.e., "khasra numbers of land on which poles are installed, as per revenue records", Tehsildar, Bhalwal/PIO has informed the appellant that no compiled information is available in his office. However, PIO has given option to appellant to see original records on any working day as per convenience of the appellant. Thereafter, first appeal filed before SDM, Jammu (North)/FAA under Section 16(1) of the Act has been decided by Ms. Anvy Lavasa, SDM, Jammu (North)/FAA vide order dated: 20-06-2016, concluding therein that information required by the appellant would involve demarcation of land which is a service to be availed after application and payment of requisite fee and applicant is as such advised to apply for the same under relevant provisions of law.

4. During proceedings, appellant submitted that if the information can be provided under Public Service Guarantee Act, they why it can not be provided under RTI Act.

5. The Commission has observed that information at point 1-4 of the application is not relevant to Revenue department. Therefore, response of the PIO that "no records are available" is accepted. So far information sought at point 5 is concerned, FAA has conceded that demarcation of land is service which can be availed after payment of requisite fee by the appellant. Attention of the FAA was drawn to **Section 19 of the J&K RTI Act, 2009-Act to have over riding effect**, which provides *"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."* Therefore, even if the information sought falls under the definition of "**services**" under "**any Act**", PIO is required to provide information as per provisions of the RTI Act, keeping in view, restrictions of the Section 8,9 & 11. However, there is a set procedure under J&K Land Revenue Act for getting demarcation of land, revenue extracts, etc, which appellant has to follow. In accordance with the provisions of section 19 of the RTI Act, Commission has taken a consistent stand in

various decisions that the citizens have right to seek information under RTI regarding covered under J&K Land Revenue Act, after following procedure and on payment of such fee, as is prescribed in the relevant Act. Refer decision of the Commission vide No.SIC/J/A/214/2015/252 dated: 25-02-2016 titled Umesh Gupta V/s FAA/DC, Reasi and PIO/Tehsildar, Katra, which is uploaded on the website of the Commission.

6. FAA submitted that demarcation sought by the appellant covers a distance of about 30 kilometers and for this, Tehsildar have to depute his entire revenue team, which would affect other works of the department. She also submitted that appellant can seek demarcation of own land and for demarcation of land of other villagers, owners have to be present for demarcation.

7. Having taking note of the submissions made by FAA herein above, Commission directs Tehsildar, Bhalwal/PIO to inform the appellant the procedure and also fee chargeable, as per J&K Land Revenue Act for getting information at point 5 within one week.

8. With regard to information sought at point 1-4, appellant is advised to approach concerned department/agency.

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

Sd/-
(Er. Nazir Ahmad)
State Information Commissioner

No. SIC/J/A/28/2016

Dated: -06-2016

Copy to the:-

1. First Appellate Authority, SDM, Jammu.
2. Public Information Officer, Tehsildar, Bhalwal.
3. Pvt. Secretary to HSIC.
4. Shri Thakur Virender Singh S/o Late Col. P.D.Singh R/o Handalwah, Akhnor (Appellant).
5. Guard file.

(G.Q.Bhat)
Registrar,
J&K, State Information Commission