



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/K/SA/54/2016

Decision No. SIC/SA/54/2016/52

Appellant : Sh. Ab. Ahad Bhat

Respondent : FAA/Commissioner SMC Srinagar
PIO/Secretary SMC Srinagar

Date of Registration : 09.05.2016

Date of Decision : 21.09.2016

1. Brief facts of the case are that Appellant submitted a Second Appeal from under RTI Act 2009 stating that he submitted an application to PIO SMC Srinagar which was transferred on 11.01.2016. That after expiry of stipulated time period of 35 days, no information was disseminated by the PIO. Thereafter, he filed First Appeal before the concerned FAA on 25.02.2016, but not information was provided to him. He has accordingly requested the Commission to take action against PIO and provide him the desired information.

2. During proceedings in the Commission on 26.05.2016, following directions were issued, which were conveyed to the respondents vide Notice Dated 31.05.2016:

1. *“PIO SMC is directed to provide copy of communication dated 17.05.2016 along with documentary proof to Jt. Commissioner*

(Planning), SMC Srinagar and Ward Officer, Ward No. 32 SMC to whom RTI application has been transferred by PIO SMC.

2. *Jt. Commissioner (Planning), SMC Srinagar and Ward Officer, Ward No. 32 SMC are directed to given response to the queries of the RTI application within one week and also file reply/counter statement explaining their position”*

3. The case was heard on 16.06.2016 and interim orders were issued with following directions conveyed vide notice dated 22.06.2016:

1. “Commissioner SMC shall hold an enquiry into the matter regarding missing of original building permission file containing order No. 1007 dated 08.08.2014 and abeyance order No.1772 of 2014 dated 03.12.2014 and the report of Chief Enforcement Officer and Divisional Town Planner. This enquiry should be held in a time bound manner within two weeks and inform Commission about outcome of the enquiry.

2. The Commission directs, Chief Enforcement Officer to submit his report with regard to Point-1 and Point 2 of RTI application.

3. PIO shall trace reference of communication given at Point-3 of application and provide copy of disposal/report of letter No.SMC/Fros/115-17 dated 27.02.2015.

4. Registry to issue notice to PIO, JCP and Chief Enforcement Officer to appear on next date of hearing with relevant records. Further, JCP and Chief Enforcement Officer are directed to file reply counter statement along with documentary evidence with regard to the transfer of the RTI application by the PIO on 11.01.2016 followed by reminders dated 27.01.2016 and 10.02.2016.

These directions be complied with within two weeks.”

4. During proceedings in the Commission on 06.09.2016 PIO SME submitted that the directions of the Commission conveyed vide Notice dated 22.06.2016 could not be complied due to prevailing law and order situation and accordingly requested for grant of 10 days time. Accordingly, the case was adjourned with directions to Jt. Commissioner Works and Chief Enforcement Officer to file their

report to the PIO who will forward it to the Commission in a compiled form. These directions were conveyed vide notice dated 08.09.2016.

5. In compliance to above directions, PIO SMC has filed compliance report enclosing response received from Jt. Commissioner Planning SMC and Chief Enforcement Officer, SMC dated 08.09.2016. Further, he has given following point wise response to the directions of the Commission conveyed vide letter dated 08.09.2016:

1. *The Commissioner, SMC has issued Order No.1342 of 2016 dated 08.09.2106 read with No.SMC/PS/Secy/64-40 dated 08.09.2016, whereunder Joint Commissioner (Works), SMC has been appointed as Enquiry Officer to enquire into the matter of missing of original building permission files.*
2. *The Chief Enforcement Officer, SMC vide his above quoted reference has communicated that :*
 - i) *No such site inspection report is available in the records as asked by the Joint Commissioner (Planning), SMC vide Order No.17 of 2014 dated 03.12.2014 issued under endorsement No.SMC/PS/COM/3907-09 dated 03.12.2014 to submit the report after visiting the site from then Chief Enforcement Officer and Divisional Town Planner.*
 - ii) *The matter is sub-judice before the J&K Special Tribunal (Appellate Authority) and Special Tribunal has passed status-quo order dated 04.07.2015. The brief response is given in the enclosed Chief Enforcement Officer's above referred communication at Para 2.*
 - 3) *No such information is available as already replied above that the original building permission file has been misplace.*

Copy of this communication is marked to the appellant Shri Abdul Ahad Bhat.

6. The Commission has noted that directions passed by the Commission during various hearings have been complied with. However, the enquiry report ordered by Commissioner SMC, through Jt. Commissioner (Works) regarding missing of original building permission files have not been submitted. Accordingly, Commission directs Commissioner SMC to explain delay in concluding enquiry and expedite it under intimation to the Commission. Further, Commissioner SMC shall take action against defaulting officers/officials under conduct rules under intimation to the Commission.

7. As regards delay, the Commission directs the then Jt. Commissioner (Planning) SMC and Chief Enforcement Officer SMC to explain as to why penalty proceedings under Section 17 shall not be initiated against them for delay in responding the RTI application, which has been transferred to them by the PIO SMC vide No. SMC/Genrl/1557-59 dated 10.02.2016. Their explanations, if any, should be filed within two weeks.

Accordingly, appeal is dispose of with the above directions.

Sd/-
(Er. Nazir Ahmad)
State Information Commissioner
Dated: -09-2016

File No SIC/K/SA/54/2016

Copy to the:-

1. FAA/ Commissioner SMC Srinagar
2. Shri Mushtaq Ahmad Sheikh, the then Jt. Commissioner (Planning) SMC Srinagar presently Sr. Architect J&K Architect Organization, SMC Srinagar
3. Secretary SMC Srinagar

4. Shri Nisar Ahmad Shah, the Chief Enforcement Officer SMC Srinagar presently I/C Chief Revenue Officer, SMC Srinagar
5. Pvt. Secretary to HSIC(K)
6. Sh. Abdul Ahad Bhat S/o Ghulam Ahmad Bhat R/o Gow Kadal, Mandir Bagh, Srinagar
7. Guard File.

(Sheikh Fayaz Ahmad)
Registrar,
J&K, State Information Commission