



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/61/2016

Decision No. SIC/J/A/61/2016/369

Appellant : Sh. Ram Singh

Respondent : FAA/DC, Jammu
PIO/ADDC, Jammu

Date of Registration : 25.05.2016

Date of Decision : 31.08.2016

Brief Facts:

The appellant Sh. Ram Singh filed 2nd appeal stating that he submitted RTI application before PIO seeking required information but the PIO has not responded to the request of the appellant within the prescribed period of 30 days.

Aggrieved with the non response of the PIO he filed First Appeal before First Appellate Authority which was not responded to within the prescribed period of 45 days. He further submitted that the information requested is of public interest. That the appellant has requested for copy of letter No. 2098/OQ dated: 19.09.2011. That the PIO directed the appellant to approach Tehsildar, Bhalwal whereas, it was obligatory on the part of PIO to transfer the request of the appellant under section 16 (1) of the RTI Act, 2009 to Tehsildar, Bhalwal. That the letter

dated: 19.09.2011 is issued from the office of Tehsildar, Jammu that too in the year, 2011 but it is quite irrelevant that letter is not traceable. As such, the information has been denied to the appellant. In view of the above, the appellant prayed that the required information be provided without any further delay, since the information sought is required in the interest of public at large and if not provided will render the appellant/information seeker to irreparable losses and damages.

As per documents enclosed with the appeal RTI application was filed before PIO/Addl. Deputy Commissioner, Jammu vide letter dated: 04.02.2016 seeking information on 02 points. This RTI application was responded to by PIO/Tehsildar, Jammu vide letter dated: 13.02.2016 informing the appellant that letter dated: 19.09.2011 is not traceable in that office and requested the appellant to approach Tehsildar, Bhalwal. The First Appeal filed before FAA, O/o Deputy Commissioner, Jammu dated: 08.03.2016 was adjudicated by Ms. Anuradha Gupta (KAS), ADDC, Jammu-cum-FAA with directions to Tehsildar, Jammu that he shall make another honest attempt to retrieve the information through a specially constituted Committee in his office which shall try to trace the said information within a week.

Proceedings:

In compliance to the directions of the Commission conveyed vide notice dated: 28.06.2016, Ms. Anuradha Gupta, ADDC, Jammu-cum-FAA filed counter statement/reply interalia submitting that appeal against Tehsildar, Jammu lies before ADDC, Jammu as FAA and the appeal against PIO/Tehsildar, Bhalwal lies before SDM, North. That the First Appeal against Tehsildar, Bhalwal has been forwarded to SDM, North vide letter dated: 15.03.2016. That the First Appeal

against Tehsildar, Jammu was disposed of with the direction to PIO/Tehsildar Jammu that he shall make another honest attempt to retrieve the information within a week's time and if the information is traced in his office, he shall provide it to the appellant and inform the court of FAA accordingly.

During proceedings in the Commission on 20.07.2016, following directions were issued which were conveyed to the respondents with copy to appellant under notice dated: 03.08.2016:-

- 1. "Tehsildar, Bhalwal is directed to file counter statement regarding disposal of RTI application transferred by Tehsildar, Jammu vide letter dated: 19.02.2015 within two weeks.***
- 2. PIO O/o. Dy. Commissioner, Jammu/PLO is directed to ascertain the genuineness/authenticity of letter No. 2098/OQ dated: 19.09.2011 furnished by the appellant and inform the Commission on the next date of hearing.***
- 3. SDM North, Jammu/FAA is directed to file reply/counter statement within two weeks."***

Ms. Avny Lavasa, SDM Jammu North-cum-FAA, Sh. Manzoor Hussain Malik, Tehsildar Jammu Khas-cum-PIO, Sh. Mohit Gupta, Tehsildar, Bhalwal-cum-PIO, Sh. Khalid Abdullah Shah, Law Officer, O/o DC, Jammu (on behalf of ADDC, Jammu/FAA) and Sh. Padam Dev Singh (authorized representative of appellant) attended the hearing on 01.09.2016.

In compliance to the notice of the Commission dated: 03.08.2016, Ms. Avny Lavasa, IAS SDM Jammu North-cum-FAA filed reply counter statement, interalia, submitting that the reply to the information seeker was provided by Tehsildar Jammu on 13.02.2016, but the applicant not satisfied with the information preferred First Appeal before the FAA/ADDC Jammu on 12.03.2016. That the PIO/Tehsildar Jammu has submitted that copy of letter is not traceable and

information may be available with the office of Tehsildar, Bhalwal. Accordingly, FAA has directed Tehsildar, Bhalwal to provide the information to the appellant vide order dated: 07.04.2016.

Tehsildar, Jammu filed written statement before the Commission vide no. TJ/OQ/646 dated: 31.08.2016 interalia submitting that as per Dispatch Register, vide No. 2098/OQ dated: 19.09.2011 a notice has been issued in the name of Budhi Singh and others through Patwari, Halqa Barn. That after the creation of new administrative unit the area now falls under the jurisdiction of Tehsildar Bhalwal. That despite best efforts, the file related to this dispatch no. could not be traced till now. Accordingly, a written statement is made before the Commission. This report alongwith copy of Dispatch Register, indicating the dispatch no. as referred to in the RTI application, is taken on record.

Further, in compliance to directions of the Commission conveyed through notice dated: 03.08.2016 Tehsildar, Bhalwal has filed reply dated: 08.08.2016 with regard to notice issued by Tehsil office Jammu bearing No. 2098/OQ dated: 19.09.2011 stating that in this connection report of Naib Tehsildar, Bhalwal was sought who submitted report vide No. 78/NTB dated: 14.08.2016 stating that the said notice bearing No. 2098/OQ dated 19.09.2011 has not been found either in the records of Naib Tehsildar Patwar Halqa Jammu nor in the Tehsil office. This reply has been filed by the then Tehsildar, whereas, Tehsildar now posted at Bhalwal and who attended the hearing is Sh. Mohit Gupta.

Surprisingly, copy of notice is available with the appellant and he has enclosed it with the RTI application alongwith other enclosures. Now, appellant wants an attested copy of this notice which has been issued to him by Tehsildar and further action on it.

Tehsildar, Jammu Khas informed the Commission that perusal of the notice available with the appellant reveal that it has been issued by Tehsildar Jammu in the name of Budhi Singh and others regarding illegal occupation of State land and imposition of fine and recovery thereof. Obviously further follow up action should have been made on the matter and rather, it should have been pursued vigorously by the Tehsildar and other revenue officers who are entrusted with the responsibility of the offices held by them. The information/report submitted before the Commission till date by Tehsildar, Jammu Khas and Tehsildar, Bhalwal reveals that copy of this notice though issued from Tehsil Jammu as per copy of Dispatch Register produced before the Commission is not traceable. Therefore, the Commission directs both the Tehsildars to file written affidavit before the Commission regarding availability or otherwise of this notice in their records. Tehsildar, Bhalwal is further directed to check the inventory of handing over or taking over of records and file written affidavit accordingly.

Since, the issue involved is of larger public interest, the Commission directs Deputy Commissioner, Jammu to conduct a time bound enquiry into the matter and apprise the Commission about the outcome. The Commission also expects Deputy Commissioner, Jammu to take action against defaulting officers/officials for not pursuing the case which relates to recovery of fine for alleged encroachment of Government land.

The appeal is accordingly disposed of with above directions.

(Er. Nazir Ahmed)
State Information Commissioner

