



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/01/2016
Decision No. SIC/K/SA/01/2016/**20**

Subject: ***Second appeal of Shri Mohammad Rafiq Jan***

Respondent: FAA/PIO Srinagar Municipal Corporation (SMC),
Srinagar

Date of Institution: 16.01.2017

Date of Hearing: 16.03.2017

Decision: Appeal disposed of.

Brief background:

Background of the case is that the appellant Shri Mohammad Rafiq Jan S/o Mohammad Latif Jan R/o Firdous Abad Lane No.5 Batamalloo Srinagar had submitted an application under J&K RTI Act to the Commissioner Srinagar Municipal Corporation (SMC) on 06.10.2016 for providing information pertaining to the rules and guidelines governing the building permissions in Srinagar Municipality, details of documents pertaining to the issuance of the building permission issued by the office of the Building Operation Controlling Authority, SMC Srinagar vide order No. 723 of 2003 dated 17.11.2003 etc. In the same application, he has also alleged that building permissions have been issued in favour of one or more dead applicants. Through the same RTI

application he had asked for copy of Building permission of M/S Popular Automobiles, P C Depot Qamarwari Srinagar as indicated/drawn as “ **existing residential house of late Gh. Qadir Sofi**” in the letter No. SMC/Enf/3668-71 dated 23.12.2011. Additionally, vide Para 10 of his RTI application, he has asked action taken reports after the receipt of his letters by the Commissioner SMC sent vide No. 4848 dated 18.06.2016, 5619 dated 01.08.2016 and No. 6183 dated 08.09.2016. The applicant has also asked for copies of reports sent by Chief Enforcement Officer between 2009 and 2015. He has also asked for documents pertaining to benefits availed by the Chief Enforcement Officer w.e.f 2009 to 2015 and copies of the Show cause notices in respect of illegal constructions , demolitions etc.

From the perusal of the RTI application submitted by Shri Mohammad Rafiq Jan, it is clear that the information sought for is voluminous.

On hearing both the parties in detail on 16.03.2017 at Srinagar, their submissions can be summarized as under:-

- 1) The appellant submitted that he has not received any information so far in response to his RTI application dated 06.10.2016 and the First Appeal dated 15.11.2016 for reasons best known to the SMC. He also stated that the officials of the SMC had acted in a malafide manner to demolish one shed of M/S Popular Automobiles P C Depot Qamarwari Srinagar (tenant) just to give benefit to the owner of the land. In this process, the proprietor of M/S Popular Automobiles had been rendered jobless and had suffered serious employment problems and mental harassment. The applicant stated that he wanted this information to enable him to agitate the matter before the competent authority and the Hon’ble High Court to obtain redressal of the grievances of proprietor of M/S Popular Automobiles.
- 2) In response, the PIO of the SMC namely Shri Hilal Ahmad Deewani and APIO Shri Mudasir Hussain Bandy stated that the PIO received the application on 13.10.2016 and responded to the same on 25.11.2016 vide No.

SMC/Gen/725-26 dated 25.11.2016 asking the applicant/now appellant to deposit Rs 550/- in the Municipal Chest as copying charges as envisaged under the relevant provisions of J&K RTI Act as large number of documents had to be Xeroxed to provide him the information as asked for. The officers admitted to delay but said that since the information sought for was voluminous, it had to be collected from various other quarters within the SMC and that resulted in delay. Both the parties were heard at length during which they tried to put across their respective stands.

Directions:

After hearing both the parties at length, the following directions are hereby issued with a view to dispose of the Second Appeal.

1. In view of the admitted delay on the part of SMC in responding to the RTI applicant beyond the stipulated period of 30 days, the Commission directs that no copying charges may be charged in terms of Section 7(6) of the J&K RTI Act which reads as under:-

"Notwithstanding anything contained in sub-section(5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).

2. On perusal of the original request of the applicant, it does not appear that any of the information sought for falls under exemptions under Section-8 and therefore the PIO of the SMC was directed to provide the information that was available. The PIO assured that the information as will be available in the SMC and subordinate offices of the SMC will certainly be provided and also the ATRs etc. The commission therefore directs that information as is available may be

provided and the same should not be denied under the cover of non-availability of information to deny the available information to the applicant.

3. The Commission observed that there had been delay on the part of the PIO and a serious view could be taken to impose penalty as provided under the Act. Similarly, there has been no response from the FAA i.e., Commissioner SMC which is being taken serious note of. Directions are accordingly issued to the PIO SMC and the FAA/Commissioner, SMC to be careful in future and to entertain and dispose of applications under the RTI Act strictly within the provisions of the law. They must also examine the setup of the RTI cell within their respective offices to streamline the working of such cells so that timely response is given to the RTI applicants and information seekers. If additional officials are to be assigned to such RTI cells, the same may be done. No penalties are being imposed this time in view of the cooperative and positive attitude shown by the PIO and the APIO of SMC during the hearing.
4. The PIO and the APIO of the SMC stated before the Commission that there was lack of awareness under the RTI Act among the officials of SMC and the SMC is already taking steps to create awareness of the RTI Act and the rules but more needs to be done. The Commission is in agreement with the suggestion of the PIO and APIO of the SMC that training and awareness generation meets may be held with the officials of the SMC and PIOs and APIOs to create the desired awareness of the RTI Act.
5. Lastly, the Commission directs that the information as directed by the commission here-in-above may be provided to the applicant within a period of two weeks and compliance report submitted to the Registrar, J&K State Information Commission.

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

Sd/-
(Khurshid A Ganai) IAS, Retd.
State Chief Information Commissioner

No. SIC/K/SA/91/2016

Dated: -03-2017

Copy to the:-

1. Commissioner SMC Srinagar
2. PIO SMC Srinagar
3. Pvt. Secretary to HCIC.
4. Sh. Mohammad Rafiq Jan S/o Mohammad Latif Jan R/o Firdous Abad, Lane No. 6, Batmaloo Srinagar
5. Guard File.

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