



Jammu and Kashmir State Information Commission

شہنیشن کمیٹی انفارمیری اسٹیٹسٹ کشمیری 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

FINAL ORDER

File No. SIC/K/SA/25/2017

Decision No. No. SIC/K/SA/25/2017/**17**

- Appellant : Mr. Pir Bilal Ahmad Baba S/o Pir Shams Din
R/o Deedarpora Block Qaziabad
(2nd Appeal)
- Respondent : First Appellate Authority (FAA)/Director Rural
Development Department
Public Information Officer (PIO)/District
Panchayat Officer Kupwara
- Date of Registration : 24.04.2017
(2nd Appeal)
- Date of Decision : 20.06.2017

Brief Facts:

Brief facts of the case are that the RTI application of the appellant Shri Pir Bilal Ahmad Baba R/o Deedarpora Block Qaziabad District Kupwara has been prompted by the fact of encroachment on Kahcharie land at village, Deedarpora (Qaziabad), Tehsil, Kralgund Kupwara. As per the available records and papers, this matter has been hanging fire for a long

time and is very much within the knowledge of the District Administration of Kupwara as also the concerned authorities of the Revenue and the Rural Development Departments. From the papers available on file, Tehsildar Qaziabad Kralgund Kupwara vide letter dated 09.01.2016 has informed the then RTI applicant and now appellant Shri Pir Bilal Ahmad Baba that 53 Kanals and 8 marlas of Kahcharie orchard land at village Deedarpora has been demarcated and evicted and handed over to BDO Qaziabad on spot on 28.08.2015 as per the directions of the Hon'ble High Court. Following this reply to his RTI application from Tehsildar (Qaziabad) Kralgund, the applicant filed an RTI application before District Panchayat Officer (DPO) Kupwara with the following queries:

1. Total number of fruit bearing trees in the demarcated land of 53 kanals and 8 marlas of village Deedarpora.
2. Names of the persons who have occupied illegally the demarcated land again.
3. Whether there is any structure in the demarcated land and if any name of the person.

The appellant admitted during proceedings that he has now received information in respect of Point No. 2 and 3 mentioned above, however information in respect of Point No. 1 has not been provided to him by the PIO. As such, the applicant filed First Appeal before the Additional Deputy Commission (ADC) Kupwara on 31.12.2016 who disposed of the same on 11.01.2017 by transferring the said First Appeal to the Director Rural Development Department Kashmir on the grounds that the First Appellate

Authority for the Rural Development Department/District Panchayat Officer Kupwara is Director, Rural Development Department, Kashmir. While transferring the First Appeal to the Director Rural Development Department, Kashmir, ADC Kupwara has in the endorsement directed AC (D) Kupwara and Tehsildar Qaziabad Kralgund to provide the necessary information to the appellant Shri Pir Bilal Ahmad.

The Director Rural Development Department, Kashmir (FAA) has disposed of the the First Appeal on 14.03.2017 with the following directions:

"Block Development Officer Qaziabad through the District Panchayat Officer Kupwara will take up the issue with the concerned Revenue Authorities viz Tehsildar for proper mutation of State land situated at village Deedarpora to concerned Panchayat Halqa if transfer of the land has been ordered by the District Administration, so that the BDO concerned is able to provide the information as sought by the applicant. The same was also agreed by the applicant."

Against this order of the FAA, the appellant came in 2nd Appeal to the State Information Commission, which was received on 24.04.2017. The 2nd appeal came up for hearing before the commission today on 21.06.2017.

The Director Rural Development Department vide letter dated 20.06.2017 had authorized Shri Syed Abdul Basit, PIO of the Directorate of Rural Development Department to represent him in the hearing without giving reasons for his exemption for attending the hearing.

Shri Syed Abdul Basit Asst Director (Planning)/PIO Directorate of Rural Development Department, Kahmir, Sh. Mohammad Ramzan

Panchayat Inspector Block Qaziabad, Sh. Sajad Ahmad Tantrary, VLW Block Qaziabad, Tehsil Kralpora, District Kupwara, and appellant Shir Pir Bilal Ahmad Baba attended the hearing. District Panchayat Officer, Kupwara did not attend the hearing for reasons not known. The BDO, Block Qaziabad also did not attend the hearing today on 20.06.2017.

Decision:

From the counter statement submitted by the BDO Qaziabad, it transpires that the Dy. Commissioner Kupwara through letter dated 30.05.2017 has directed Tehsildar, Kralgund to go through the contents of the letter received from the DPO Kupwara regarding encroachment of Panchayat land/plantation beat by the locals and eviction thereof, and take appropriate necessary action as required under rules. The DPO vide letter dated 16.06.2017 has constituted a Committee of three BDO's namely BDO Qaziabad, BDO Kupwara, BDO Handwara and Panchayat Inspector Qaziabad to work out the information as required under the aforesaid RTI application in consultation with Tehsildar concerned and submit the same within a week's time.

During the hearing, the representative of BDO submitted that the encroachment has yet to be removed and that the State land has never been handed over to the Block Office. He further said that the Tehsildar's claim/reply to the RTI applicant Shri Pir Bilal Ahmad Baba that the state land at Deedarpura has been demarcated, evicted and handed over to the BDO Qaziabad on 28.08.2015 has not happened on ground and that the land still stands encroached. As per the order issued by Director Rural

Development Department in the First Appeal on 14.03.2017, he has also reached to the conclusion that the land in question (State land) has not been transferred properly to the Rural Development Department and that the mutation of the said land has not taken place in favour of Panchayat due to which reason, the BDO Qaziabad is not in position to provide the specific information of fruit bearing trees existing in the said land.

Directions:

From the papers on record and the submissions made by the parties, including the appellant, it was revealed a that Kahcharie land at village Deedarpora continues to be encroached and occupied illegally. Therefore, to respond correctly to the RTI of Shir Pir Bial Ahmad Baba filed before the DPO on 21.01.2016 with the queries as mentioned above, the following directions are hereby issued in terms of Section 16(9) of the J&K RTI Act, 2009:

1. District Collector/DC Kupwara, who is the custodian of the State land and local guardian of the community land like the Kahcharie land etc as the District Collector will take strong steps under law to remove the encroachment on Kahcharie/ State land at village Deedarpora Tehsil Kralgund through the Revenue Department .
2. Disciplinary action against the then Tehsildar, Kralgund is recommended for giving wrong information to the applicant in RTI application vide letter dated 09.01.2016 claiming that the

encroachment on Kahchariai land at village Deedarpora had been removed and land handed over to BDO, Qaziabad on 28.08.2015

3. Also seek explanations from DPO, Kupwara and BDO, Qaziabad for sleeping over the matter for more than a year and for not taking up the matter with the District Collector/DC Kupwara till 8th May of 2017 which ultimately resulted in the orders of D C Kupwara to Tehsildar Kralgund dated 13.05.2017.
4. Registry to seek explanation from DPO, Kupwara and BDO Qaziabad as to why they failed to attend the hearing in the Commission.
5. Dy. Commissioner, Kupwara after adhering to the directions at Point-1 here-in-above, shall direct the concerned PIO/DPO/BDO to provide remaining information on Point-1 of RTI application to the applicant under intimation to the Commission.

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

Copy to:

1. District Development Commissioner, Kupwara,
2. FAA/Director Rural Development Department, Kashmir
3. PIO O/o Director Rural Development Department Kashmir
4. PIO/District Panchayat Officer Kupwara
5. Pvt Secy to HCIC J&K Srinagar
6. BDO Qaziabad, Kupwara
7. Syed Qawam-ud-Din, the then Tehsildar Qaziabad, presently posted as Tehsildar Eidgah Srinagar

8. Appellant-Sh. Peer Bilal Ahmad Baba S/o Shams-ud-Din Peer R/o Village Deedarpora Qaziabad Kralgund langate Kupwara
9. Office file

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