



Jammu and Kashmir State Information Commission

شہنیشن کمیٹی انفارمیری اسٹیٹسٹ کشمیر 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

File No. SIC/J/A/90/2017

Decision No. SIC/J/A/90/2017/22

Final Order

(2nd Appeal)

- Appellant : Sh. R.C. Sharma
R/o. H.No. 73, Raghunath Pura,
Jammu
- Respondent : First Appellate Authority (FAA)/Municipal
Commissioner, Jammu Municipal Corporation(JMC),
and Public Information Officer (PIO)/Secretary,
JMC.
- Date of Registration : 03.02.2017
- Date of Decision : 15.06.2017

Brief Facts:

This is a second appeal filed under section 16 (4) of the J&K Right to Information Act, 2009 in the J&K State Information Commission by one Sh. R.C. Sharma, R/o. H.No. 73, Raghunath Pura, Jammu against the alleged non-furnishing of information by the concerned PIO of the Jammu Municipal Corporation (JMC).

The appellant has sought the following information in his original RTI application:

1. Provide the certified copy of building permission/plan given to H.No. F-48, S.V. Nayyar, Gulshan Nayyar & Akash Nayyar Raghunath Pura, Jammu.
2. If Projection/Gallery is allowed beyond four walls of above mentioned construction. Projections Gallery construction is going on.
3. What action is taken on my application dated: 30.08.2016 vide receipt No. 4719. Also provide the file notings.
4. What are observations and report by Enforcement Inspector on visit 31.08.2016 in response to my application. Is any notice sent under building operation controlling authority Act. Provide the certified copies.
5. Also provide me certified copy of building permission of building being constructed opposite to H.No. 71, and Jagdish Medical hall, Raghunath Pura Jammu.

Proceedings:

In response to the notice of the Commission dated: 23.02.2017 PIO/Sh. Ranjit Singh, Secretary, Municipal Corporation Jammu filed counter statement/reply vide his No. dated: 18.03.2017 interalia submitting that as the information pertained to Joint Commissioner (A) and Senior Town Planner, they were requested to provide the available information vide communication dated: 08.09.2016. That Senior Town Planner vide his letter dated: 21.09.2016 provided the information which was sent to the appellant vide communication dated: 24.09.2016. Reminder had been sent to Joint Commissioner (A) vide communication dated: 15.10.16 to furnish the reply. That FAA heard the First Appeal on 19.11.2016 and directed the PIO to take all necessary steps and

provide the complete information to the appellant within a period of seven days and the First Appeal was disposed of vide order dated: 22.11.2016. That as per the direction of FAA the reply of Chief Enforcement Officer dated: 02.11.2016 received in the PIO section on 02.12.2016 was sent to appellant vide communication dated: 02.12.2016. That the information was not delivered due to wrong address of the applicant and returned to PIO office. That the appellant again filed First Appeal before FAA on 15.12.2016 which was fixed for hearing on 18.11.2016 which was not attended by the appellant. That the FAA observed that the First Appeal already stands disposed of vide order dated: 22.11.2016 and directed the PIO to provide the available information, pending if any within a period of 10 days. That he again forwarded the reply of Chief Enforcement Officer vide letter dated: 11.03.2017.

The case was listed for hearing on 30.03.2017 and was adjourned with the following directions:

"The appellant shall inform the PIO, JMC with a copy to the Commission in what respect the information provided earlier and today is incomplete, within two weeks time and also file objections, if any."

The case was again listed for hearing on 22.05.2017 and was again adjourned with the following directions:

"During the hearing today on 22.05.2017, a copy of the letter received from Sh. R.C. Sharma dated: 17.04.2017 addressed to the Joint Registrar, J&KSIC was handed over to the Executive Officer of JMC/Secretary, JMC for providing the balance information as has been requested by the appellant"

through this application dated: 17.04.2017. It is also decided that the case be adjourned and listed by the Registry on 15th of June, 2017."

FAA/Sh. M. Raju (IAS), Commissioner, Municipal Corporation, Jammu filed counter statement which was received in the Commission on 29.05.2016 submitting therein that the second appeal filed by the appellant is devoid of merits and requires dismissal as the appellant has even failed to comply the orders of the Hon'ble Commission whereby it was directed that the appellant shall inform the PIO, JMC in what respect the information provided earlier and today is incomplete within two weeks time and also file objections, if any.

The case was again listed for hearing today on 15.06.2017. The hearing was attended by Sh. R.S. Jamwal, Joint Commissioner, JMC. The appellant also attended. Appellant submitted that due to unauthorized building construction, the inhabitants are facing problems of parking and traffic. Appellant also submitted copy of the parawise reply to the revised information provided by the PIO. The copy of the same was also given to Joint Commissioner, JMC for disposal within one week positively under intimation to the appellant and the State Information Commission. Information not provided so far and pointed out by the appellant in his parawise reply may also be provided, if available on record.

The Commission observed that before granting permission to such buildings for commercial use, the JMC has to take care of other aspects also. A prior permission should be taken from the concerned Traffic Advisory Committee (TAC) headed by the Deputy Commissioner at the District level and the

Divisional Commissioner at the Divisional level. The JMC must make frequent references to the concerned TAC and not ignore or avoid such references when building permissions pertain to traffic generating commercial buildings and complexes.

The second appeal is accordingly disposed of.

Copy of this decision be given free of cost to the parties.

Sd/-

(Khurshid A. Ganai) *IAS Retd.*
Chief Information Commissioner
J&K State Information Commission

Dated: . . .2017

No: SIC/J/A/90/2017 _____

Copy to:

1. FAA/Municipal Commissioner, Jammu Municipal Corporation (JMC) for information and necessary action.
2. Registrar, J&K SIC for information and necessary action.
3. PIO/Secretary, Jammu Municipal Corporation (JMC) for information and necessary action.
4. PS to HCIC for information.
5. Appellant/Sh. R.C. Sharma, R/o. H. No. 73, Raghunath Pura, Jammu.
6. Office file.

(Rita Koul)
Deputy Registrar
J&K State Information Commission