



**Jammu and Kashmir State Information Commission**

شہنیشن کمیٹی انفارمیر 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](http://www.jksic.nic.in)

\*\*\*\*\*

File No. SIC/J/A/104/2017

Decision No. SIC/J/A/104/2017/25

**Final Order**

(Second Appeal)

Appellant : Sh. J.P. Sharma

Respondents : First Appellate Authority (FAA)/  
Superintending Engineer, PWD (R&B),  
Jammu Kathua Circle, and  
Public Information Officer (PIO)/  
Executive Engineer, PWD (R&B) Tawi  
Bridge cum Medical College, Jammu  
and PIOs, O/o. Chief Engineer, PWD  
(R&B), Jammu and Collector,  
Land Acquisition, PWD (R&B) Jammu

Date of Registration : 15.03.2017

Date of Decision : 14.07.2017

**Brief Facts:**

This is a second appeal filed under section 16 (4) of the J&K Right to Information Act, 2009 (hereinafter Act for short) in the J&K State Information Commission by Sh. J.P. Sharma, R/o. H. No. 165, Adarsh Vihar, Opposite Sainik Colony, Jammu-180011 on 15.03.2017. The

appellant interalia submitted that he had filed an RTI application with the PIO, O/o. Chief Engineer PWD(R&B) Department, Lok Nirman Bhawan, Rail Head Complex, Jammu on 07.11.2016 seeking the following information:

1. Certified copy of land transfer details from AC Nazool to PWD for rehabilitation complex at B.C. Road, Jammu.
  - (i) Whether all the land transferred from Nazool for rehabilitation complex has been utilized fully, if yes provide the relevant record.
  - (ii) In case any part of the land has not been utilized as per (i) above, please provide the copy of the same with Khasra No. and area which is utilized till date.
  - (iii) Whether the unutilized land, if any as per (i) & (ii), is under the possession of PWD department or returned back to Nazool. Please provide the certified copy of the order in this regard, if any.
  - (iv) Copy of the approved map of Trikuta Rehabilitation Complex BC Road, Jammu.

That the PIO, O/o. Chief Engineer, PW (R&B) Department, Jammu forwarded the RTI application to the Executive Engineer, PW (R&B) Department, Tawi Bridge cum Medical College, Jammu vide his letter dated: 08.11.2016. That the Executive Engineer, PW (R&B) Department, Tawi Bridge cum Medical College, Jammu disposed of the RTI application vide his No. 3426-27 dated: 02.12.2016 in a very cursory manner alongwith intimating that the part of information pertains to the office of Collector, Land Acquisition, PW (R&B) Department, Jammu. That no sincere efforts have been made by both the PIO as well as Executive Engineer, PW (R&B) Department, Tawi Bridge cum Medical College, Jammu either to transfer the RTI application in terms of section 6(3) or to obtain

the assistance in terms of section 5(4) of the Act. That aggrieved by the non furnishing of the information sought for, he preferred First Appeal before the Superintending Engineer, PW (R&B) Department, Jammu-Kathua Circle on 04.01.2017 who rejected his First Appeal vide his order dated: 21.01.2017 in a very cursory and irresponsible manner by way of his irrelevant and out of context assertions.

In view of the above, appellant has requested that the penalty provisions under section 17 of the Act alongwith recommendations for initiation of disciplinary action under Service Rules applicable may be invoked against the respondents. That the PIO be directed to provide the requisite information to the appellant and the appellant be awarded appropriate compensation for the detriment suffered on account on non-furnishing of the information.

**Proceedings:**

This 2<sup>nd</sup> appeal came up for the hearing before the Commission on 20.04.2017, 24.05.2017 and 12.06.2017. During hearing on 12.06.2017 it transpired from the records made available by the Collector, Land Acquisition PWD, Jammu that only 08 Kanals and 07 Marlas of land have been handed over and taken over by the respective departments namely Revenue and PWD, Medical College Division, Jammu as against the total area of 10 Kanals and 05 Marlas for which the award seems to have been issued by the then Collector, PWD. Keeping in view this dichotomy between the final award issued and actual land handed over to the intending department i.e. PWD, Medical College Division, Jammu the Deputy Commissioner, Jammu who is the custodian of all records

pertaining to Nazool land was directed to obtain a factual report from the Revenue Department and the PWD to settle this issue of unutilized land and also determine whether the unutilized land is under the possession of intending department or is with the Nazool Department.

During hearing today on 14.07.2017 through Video Conferencing from Jammu office of the Commission, the representative of Deputy Commissioner, Jammu Sh. Vinod Kumar Behnal, Assistant Commissioner (Nazool), Jammu also attended the hearing. In addition Collector Land Acquisition PW (R&B) Department, Jammu, Executive Engineer, PWD (R&B) Tawi Bridge cum Medical College Division, Jammu and the appellant were also present.

The representative of the Deputy Commissioner, Jammu namely Sh. Vinod Kumar Behnal, Assistant Commissioner (Nazool), Jammu was apprised of the background of the case and the previous order of the Commission regarding the information which has been sought by the appellant/RTI applicant. The Assistant Commissioner (Nazool), Jammu stated that he will examine the matter and inform the Commission with a proper finding. He was directed to coordinate in this matter with the Collector, Land Acquisition, PW (R&B) Department, Jammu and Executive Engineer, PWD (R&B) Tawi Bridge cum Medical College Division, Jammu who have the records pertaining to the case and then provide the information directly to the appellant under intimation to the Commission in response to his original RTI application to the PIO of the office of Chief Engineer (R&B), Jammu. The Assistant Commissioner (Nazool), Jammu agreed to coordinate with the Collector, Land Acquisition, PW (R&B)

Department, Jammu and Executive Engineer, PWD (R&B) Tawi Bridge cum Medical College Division, Jammu and provide the jointly attested information to the appellant within the frame work of the J&K RTI Act, 2009 and RTI Rules, 2012 in response to his RTI application. This may be done within a period maximum of 30 days from the date of receipt of this order.

The appellant submitted that he will now approach the Assistant Commissioner (Nazool), Jammu for the requisite information in terms of the directions of the Hon'ble Commission but the State Information Commission should take serious note of the conduct of FAA/Sh. Sudhir Shah, Ex. Superintending Engineer, PW (R&B) Department, Jammu-Kathua Circle who has not performed the duties of the FAA in the manner in which these have been provided in the J&K RTI Act. The Commission took note of this submission.

As regards the conduct of PIO/FAA in this case, the same can be taken cognizance of only in terms of the mandate of the Commission under the J&K RTI Act, 2009. The appellant is free to file a complaint under Section 15 of the J&K RTI Act, 2009 if he thinks and believes that there are grounds for filing such a complaint.

With these directions the second appeal is 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

No: SIC/J/A/104/2017\_\_\_\_\_

Dated: . .2017

Copy to:

1. Registrar, J&KSIC for information and necessary action.

2. FAA/Superintending Engineer, PW (R&B) Department, Jammu Kathua Circle, Jammu for information and necessary action.
3. PIO/Executive Engineer, PWD (R&B), Tawi Bridge cum Medical College Division, Jammu for information and necessary action.
4. Assistant Commissioner (Nazool), Jammu for information and necessary action.
5. Collector, Land Acquisition PW (R&B) Department, Jammu for information and necessary action.
6. Private Secretary to HCIC for information of the HCIC.
7. Appellant/Sh. J.P. Sharma, R/o. H. No. 165, Adarsh Vihar, Opposite Sainik Colony, Jammu-180011 for information.
8. Office file.

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