



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/CO/SA/459/2017

Decision No. SIC/ CO/ SA/459/2017/975

Appellant : Sh. Ashish Sharma (Advocate).
Respondent : Public Information Officer, O/o Div. Commissioner,
Jammu.
Date of decision : **29-06-2017.**
Decision : Appeal disposed of.

I. Brief facts of the case.

Briefly the facts of this case are that the appellant approached the Public Information Officer (PIO) O/o Financial Commissioner, Revenue J&K with RTI application dated 01-10-2016 seeking information on (6) points regarding alienation of land from June'1966 to September'2016. After the appellant did not get the requisite information he filed 1st appeal with First Appellate Authority (FAA) O/o The Financial Commissioner (Rev) J&K on 28-11-2016. His 1st appeal was not disposed of by the FAA which constrained him to approach the Commission by filing 2nd appeal which was received in the Commission on 01-03-2017. In the 2nd appeal the appellant has requested the Commission to direct the respondents to provide him the requisite information besides taking action against the PIO.

II. Proceedings before the Commission.

The case came up for hearing before the Commission on 07-06-2017. The hearing was attended by Sh. Shahbaz Ali Mirza, FAA, O/o Financial Commissioner Revenue, J&K (FCR) and PIO Sh. Des Raj Bhagat. The appellant was however, not present. During the hearing it was observed that PIO of FCR office had transferred

the RTI application to the office of Divisional Commissioner, Jammu. 1st appeal was similarly transferred there by the FAA. This was done in a summary manner without reference to the relevant provisions of the J&K RTI Act, 2009, and without hearing the appellant. The respondents were partly heard and hearing was adjourned as it was felt necessary to hear the appellant. FAA & PIO O/o Divisional Commissioner, Jammu were made party respondents for hearing them on the next date of hearing.

The final hearing was held on 29-06-2017 before the Commission. The hearing was attended by Sh. Des Raj Bhagat, PIO O/o FCR. The appellant again remained absent despite Commission due notice. In the absence of the appellant the case was decided on the merit on the basis of available records.

III. **Decision:**

From the perusal of records and hearing of the case it transpires that PIO of the FC (R) has in a routine manner transferred the RTI application to the O/o Divisional Commissioner, Jammu for providing the information with the belief that the requisite information is lying with the office of Divisional Commissioner, Jammu and can be best provided by them. The said PIO has not statutorily and formally transferred the RTI application in terms of section 6(3) of the J&K RTI Act, 2009 which is an omission. As the RTI applicant did not receive the information, he filed 1st appeal with the First Appellate Authority, viz FC (R) office on 28-11-2016 but unfortunately FAA also did not respond in the manner as is provided in the J&K RTI Act forcing the appellant to come to the 2nd appeal in the Commission. Despite fixing the hearing on two occasions on 07-06-2017 and 29-06-2017, the appellant failed to appear before the Commission. Therefore, in this situation, the Commission has no option but to decide the case on the basis of record and the two hearings in which respondents from the FC (R) office were present.

Following directions are accordingly issued for compliance:

- 1. The PIO of FC (R) office will provide/collect the information from whatever sources and provide to the appellant within (3) weeks from the receipt of this order.***
- 2. The FAA & PIO O/o Financial Commissioner (Revenue), will take necessary steps to ensure that such routine & bureaucratic type of handling of RTI applications is not repeated in future and that working of RTI Cell of FC (R) Office is streamlined for speedy and statutorily correct disposal of all RTI applications.***

The 2nd appeal is accordingly disposed of.

(Khurshid A. Ganai) *IAS Retd.*,
Chief Information Commissioner,
/imi/

Copy to the:

1. First Appellate Authority (FAA), O/o Divisional Commissioner, Jammu for information.
2. First Appellate Authority (FAA), O/o Financial Commissioner (Rev) J&K for compliance.
3. Public Information Officer (PIO), O/o Financial Commissioner (Rev) J&K for compliance.
4. Public Information Officer (PIO), O/o Divisional Commissioner, Jammu, for information.
5. PS to CIC for information of HCIC.
6. Sh. Ashish Sharma, Advocate, J&K High Court R/o C-08 Medical Enclave Opp. KC Theatre Bakshi Nagar, Jammu.
7. Guard file.

(Shiekh Fayaz Ahmad)
REGISTRAR,
J&K State Information Commission.