



Jammu and Kashmir State Information Commission

شہنیشن کمیٹی انفارمیر اسٹیٹ کاشمیر 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/14/2017

Decision No. SIC/J/A/14/2017/28

Final Order

(Second Appeal)

Appellant : Sh. Krishan Dutt

Respondents : First Appellate Authority (FAA)/
Sub Divisional Magistrate (SDM), Jammu
North and Public Information Officer (PIO)/
Tehsildar, Jammu North

Date of Registration : 02.05.2017

Date of Decision : 31.07.2017

Brief Facts:

The appellant Sh. Krishan Dutt, S/o. Late Sh. Haria, R/o. Lower Barnai, P.O. Muthi, Jammu-181205 while exercising his right to information filed RTI application with PIO/Tehsildar, Jammu North on 02.12.2016 seeking information on 02 points regarding piece of land falling under Khasra No. 72 situated at Lower Barnai Jammu:

A piece of land measuring 3 Kanals 1 Marla bearing Khasra No. 72 situated at Lower Barnai Jammu is under peaceful possession and cultivation of Krishan Dutt and his brothers Kambo Ram and Daya Ram prior to 1971 and Khasra Girdwari of this land has been recorded in their names during 1971. The land

is still under possession and cultivation of the incumbents mentioned above. In this connection the information sought is under:

- I. Name of the Patwari who has issued Fard in favor of Jagdev Singh giving reasons thereof as to how he was entitled to receive Fard and enter into sale deed of part portion of this land, as undue benefit.**
- II. Whether Jagdev Singh was entitled to apply for seeking Fard and entitled/eligible to receive the same, if so the grounds thereof.**

Aggrieved by the disposal of the PIO, he filed First Appeal on 21.01.2017 with the SDM, Jammu North. At last, he approached the Commission by filing the 2nd appeal against the above mentioned respondents which was finally admitted in the Commission on 02.05.2017.

Proceedings:

This 2nd appeal came up for hearing before the Commission for the first time on 12.07.2017. On 12.07.2017, the case was adjourned with the directions that both the FAA/SDM, Jammu North and the PIO/Tehsildar, Jammu North will personally attend the hearing along with subordinate officials namely Naib Tehsildar and Patwari, on the next date of hearing, to facilitate the J&K State Information Commission to dispose of this second appeal on the basis of record available with the Revenue Department.

In compliance to the directions of the State Information Commission Sh. Mohd. Alyas Khan, SDM, Jammu North-cum-FAA and Sh. Saqib Saleem, Tehsildar, Jammu North-cum-PIO attended the hearing today on 31.07.2017. The appellant also attended.

The PIO stated that despite efforts by him he has not been able to identify the Patwari who has issued the Fard many years back (1991) as the copy of the Fard in the possession of the appellant shows only the signature of the Patwari and not his name. Moreover, the Fard being an old document, there is no likelihood of it being part of any record either in the Patwar Halqa or in the Tehsil as there is no procedure or instruction for maintaining the record of Fards. He further stated that the procedure for giving revenue record is given under Rule 34 of the J&K Revenue Rules, 1969. The FAA stated that he had personally taken up this issue with the PIO and given him instructions to provide the requisite information. During the hearing the appellant pleaded that the Fard issued by the Patwari to one Jagdev Singh has resulted in local revenue authorities directing him to vacate the land under his possession on the ground that Jagdev Singh has bought the land on the basis of the Fard issued by the then Patwari. He further pleaded that he may not be dispossessed of his land as the change in entries or sale had reportedly been affected without his knowledge and behind his back.

As far as the entitlement of Jagdev Singh for seeking copy of the Fard is concerned, it appears that the Fard should not have been issued as Rule 34 of the J&K Land Revenue Rules, 1969 entitles a land owner to seek the revenue documents from the Patwari pertaining to his own land only. Relevant portion of Rule 34 reads as under:

- (1) The Patwari shall allow anyone interested to inspect his record and to take notes of the same in pencil in his presence. He shall give to applicants certified extracts and enter in his diary a note of the inspections allowed and extracts given.....”***

The J&K Public Services Guarantee Act, 2011 and SRO 224 dated: 21.07.2012 lays down maximum time periods within which certified copies/extracts of Revenue/Land documents are to be provided to the land owners in respect of his/her land.

As far as the two points in the RTI application are concerned, the PIO is directed to try again to identify the Patwari who has issued the Fard from the previous records and also to respond to the second query of the appellant in terms of the law & Rules as existed then (1991) when the Fard was reportedly issued. This may be done within fifteen days from the date of receipt of this order.

After hearing the appellant and the respondents in detail, the respondent Tehsildar/PIO also agreed to provide the relevant revenue record pertaining to the land of the appellant including the land in question for which Fard has been issued. On this offer, the appellant agreed to visit the Tehsildar's office to obtain the revenue documents to enable him to agitate the matter in the appropriate forum.

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/14/2017_____

Dated: . . .2017

Copy to:

1. Registrar, J&KSIC for information and necessary action.
2. FAA/Sub Divisional Magistrate, Jammu (North) for information.

3. PIO/Tehsildar, Jammu (North) for information and necessary action.
4. Private Secretary to HCIC for information of the HCIC.
5. Appellant/Sh. Krishan Dutt, S/o. Late Sh. Haria, R/o. Lower Barnai, P.O. Muthi, Jammu-181205.
6. Office file.

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