



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/K/SA/37/2017
Case No. SIC/K/SA/37/2017/**44**

FINAL ORDER

Appellant : Sh. Gh. Mohi-ud-Din Sheikh
Respondents : First Appellate Authority (FAA)/
Public Information Officer (PIO)/
O/o Divisional Commissioner Kashmir
Date of Registration : 19.06.2017
Date of Decision : 05.10.2017

Brief facts :

The brief facts of this 2nd appeal are that the appellant Sh. Gh. Mohi-ud-Din Sheikh filed the 2nd appeal against the FAA and PIO O/o Divisional commissioner, Kashmir on 16.05.2017 alleging that the PIO has failed to respond to his RTI application filed on 28.02.2016. Thereafter, the FAA has also not provided him the information sought. The appellant requested the Commission to direct the concerned respondents to provide him the requisite information sought as per his basic RTI application.

As per records, the appellant vide RTI application dated 28.12.2016 has sought information from the PIO O/o Divisional

Commissioner, Kashmir on five points pertaining to the status of the land of some persons of the village Malpora, Tehsil Magam, District Budgam utilized/acquired by the Railway authorities.

Thereafter, on 27.03.2017, the appellant filed the First Appeal before the FAA/Divisional commissioner, Kashmir against the inaction of the PIO.

On scrutiny of the documents of the 2nd appeal some deficiencies were found, which the appellant got completed on 19.06.2017 and accordingly the 2nd appeal was admitted.

Proceedings before the Commission:

In response to the notice of the Commission dated 04.07.2017, the PIO/Dy. Director Planning with Divisional commissioner, Kashmir filed reply/counterstatement dated 06.07.2017 submitting that the RTI application of the appellant received on 28.12.2016 was transferred under Section 6(3) of the J&K RTI Act, to the PIO O/o Dy. Commissioner Budgam and PIO O/o Collector Northern Railways, Budgam vide letter dated 03.01.2017, besides the First appeal of the appellant received on 27.03.2017 was also forwarded to the FAA O/o Dy. Commissioner Budgam and the FAA/Collector Northern Railways Budgam vide letter dated 15.04.2017.

The PIO/Addl. Dy. Commissioner Budgam in reply to the notice of the Commission dated 19.07.2017 has filed statement of facts of the case vide letter dated 31.07.2017 stating that the information sought by the appellant in his RTI application was most appropriately held by the Tehsildar Magam and accordingly the said application was transferred to Tehsildar Magam under

Section 6(3) of the J&K RTI Act, 2009 with directions to provide the information directly to the appellant.

The 2nd appeal was heard by the Commission on 09.08.2017. The Commission observed in its interim order dated 09.08.2017 as under:-

This is a 2nd appeal filed by Sh. Ghulam Mohi-ud-Din Sheikh against First Appellate Authority and PIO O/o Divisional Commissioner Kashmir. The appellant has filed the 2nd appeal on the ground that neither the PIO responded to his RTI application dated 28.12.2016 nor FAA disposed of the First appeal filed before him on 27.03.2017.

As per the records, the RTI application of the appellant was forwarded by the PIO O/o Divisional Commissioner, Kashmir to the PIO O/o Dy. Commissioner Budgam and PIO O/o Collector Northern Railways, Budgam under Section 6(3) of the J&K RTI Act, 2009 . The First Appeal was also forwarded to the First Appellate Authority O/o Dy. Commissioner Budgam and FAA O/o Collector Northern Railways Budgam vide letter dated 15.04.2017. Thereafter, the PIO/ACR Budgam transferred the RTI application under Section 6(3) of the J&K RTI Act to Tehsildar Magam vide letter dated 30.01.2017 for providing the requisite information directly to the information seeker. The case was listed for hearing today on 09.08.2017. Appellant Sh. Ghulam Mohi-ud-Din Sheikh attended the hearing.

The Dy. Commissioner/FAA vide letter dated 08.08.2017 has submitted a report to the Commission intimating that the

information has been provided to the applicant by Tehsildar, Magam and that the applicant has preferred a number of applications before different forums to obtain the desired information. After having perused the information provided by the Tehsildar Magam vide letter dated 31.03.2017, it appears that appellant has doubtless been provided the extracts of the Revenue Record, but has not been provided the point wise reply to the RTI application. Therefore, Tehsildar Magam is directed to furnish a point wise reply in terms of the basic RTI application to the appellant and do the same within a period of 30 days from the date of receipt of this order. There is no need to call or summon anyone from the Divisional Commissioner's Office as the PIO of the Divisional Commissioner, Kashmir has transferred the RTI application to the PIO O/o Dy. Commissioner, Budgam under Section 6(3) of the J&K RTI Act, 2009 and referred the 1st appeal received in the their office to the FAA of the DC, Office Budgam.

Hearing in the 2nd appeal is adjourned. Registry is directed to call FAA O/o Dy. Commissioner Budgam and Tehsildar Magam only besides list the case for hearing after the expiry of time period given to the Tehsildar Magam here-in-above for providing/furnishing point wise reply to the appellant.

By way of observation, it is to mention here that the PIO and the FAA of the Divisional Commissioner's Office has transferred (Section 6(3)) the RTI application and referred the 1st appeal to the concerned PIO/FAA respectively but it is not clear as to which of the two PIOs or two FAAs (DC Office Budgam and Collector Land Acquisition Northern Railways) is actually the concerned

Public Authority. When a PIO decides to transfer RTI application received by him to the concerned PIO/Public Authority under Section 6(3), he/she must do so after due application of mind and after correctly identifying the PIO/Public Authority to whom the matter pertains to and who is holding the required information asked for by the RTI applicant.

The time limit for disposal of the 2nd appeal was extended by another 60 days in terms of Section 16 (11) of the RTI Act to enable more hearings for appropriate and judicious disposal of the appeal.

Accordingly, this 2nd appeal came up for hearing today on 05.10.2017. Mr Syed Altaf, PIO/Tehsildar Magam along with Patwari concerned and the appellant Shri Gh. Mohi-ud-Din Sheikh attended the hearing. During the proceedings, the PIO submitted that the requisite information has been provided to the appellant. The appellant admitted receipt of the information but submitted that complete information has not been provided to him. The PIO produced the copy of the information consisting of revenue extracts pertaining to the matter under consideration in the RTI application.

Decision:

In compliance to interim directions of the commission, the PIO has provided the requisite information/revenue extracts to the appellant vide letter dated 23.09.2017. The appellant has basically a grievance with the Railway Authorities regarding his own appointment or appointment of one of his wards in Railway in lieu of acquisition of his land by the Railway

Authorities. This is outside the purview of the State Information Commission. However, the PIO/Tehsildar Budgam may examine the genuineness of his grievance and take up the matter with the appropriate authorities through proper channel. The appellant is aggrieved on the ground that while similarly circumstanced cases have been accommodated by the Railway, Authorities, his case has been left out. No further proceedings are required in the instant appeal and the 2nd appeal filed before the Commission is disposed of.

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

Copy to:

1. PAA O/o Divisional Commissioner, Kashmir
2. PIO O/o Dy. Commissioner Kashmir
3. Tehsildar cum-Public Information Officer Magam District Budgam
4. PIO/Tehsildar Budgam
5. Sh. Gh. Mohi-ud-Din Sheikh S/o Abdul Salam Sheikh R/o Razwen Aqulipora, Magam, Budgam.
6. Guard File

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