



Jammu and Kashmir State Information Commission

شنیشن کمیٹی انفارمیری اسٹیٹوٹ کشمیری 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/40/2017

Decision No. SIC/J/A/40/2017/55

Final Order
(Second Appeal)

Appellant : Col. V.S. Mangotra (Retd.)

Respondents : First Appellate Authority (FAA)/Additional Registrar,
Co-operative Societies, Jammu and Public
Information Officer (PIO)/Deputy Registrar,
Cooperative Societies, Jammu

Date of Registration : 20.06.2017

Date of Decision : 20.10.2017

Brief Facts:

The appellant Col. V.S. Mangotra (Retd.), R/o. Sector E-605, Sainik Colony, Jammu while exercising his right to information filed RTI application with PIO, O/O Registrar, Cooperative Societies, J&K, Jammu on 22.03.2017 seeking the following information:

- (a) *Please refer to Assistant Registrar (Hqr), Co-operative Societies, J&K, Jammu letter No. RCS/SS/Sainik/14-1v/1007-09 dated: 03.02.2017 to Secretary, Sainik Co-operative House Building*

Society Ltd. Jammu, based on my request to Assistant Registrar (Hqr). You are requested to intimate the following:-

- (i) Number of persons, who are not entitled to remain members of society, but their names are there in the Register of Membership contrary to amended section 5 of the bye laws of the society.*
- (ii) What action has been taken to remove the un-authorized membership granted to non entitled.*

The PIO/Deputy Registrar (Counsel), Cooperative Societies, J&K, Jammu forwarded the RTI application to the Secretary, Sainik Cooperative House Building Society Ltd., Jammu on 30.03.2017 for providing information to the applicant (now appellant) within the stipulated time period. The Secretary, Sainik Cooperative House Building Society Ltd., Jammu responded to the RTI application on 19.04.2017 stating that the society is not a Public Authority under the J&K RTI Act, 2009 and, therefore, does not come under the ambit of the Act.

Aggrieved by the response of the Secretary, Sainik Cooperative House Building Society Ltd., Jammu, the applicant (now appellant) filed First Appeal on 21.04.2017 (through registered post) with the FAA/Additional Registrar, Co-operative Societies, J&K, Jammu. The First Appellate Authority also did not provide the requisite information to him. At last, he approached the State Information Commission (SIC) by filing the 2nd appeal against the above mentioned respondents which was finally admitted in the Commission on 20.06.2017.

Proceedings:

This 2nd appeal was admitted in the SIC on 20.06.2017 and the first sixty days expired on 20.08.2017 but owing to the need for conduct of more hearings for appropriate and final disposal of the appeal, the time period for disposal was accordingly extended by another 60 days up to a maximum of 120 days from the date of admission of the appeal in terms of Section 16 (11) of the J&K RTI Act, 2009.

The appeal was listed for hearing for the first time on 26.09.2017. Sh. Tanveer Iqbal Malik, Additional Registrar, Cooperative Societies, Jammu-cum-FAA, Sh. Naresh Sharma, Deputy Registrar, Cooperative Societies (Agri), Jammu, Ms. Ashima Iqbal, Deputy Registrar (Hqr), Jammu and the appellant were heard through Video Conferencing from Jammu office of the State Information Commission (SIC). The hearing was adjourned with the following directions:

"The Secretary, Sainik Cooperative Housing Building Society Ltd. Jammu shall appear before the Commission and put forth his oral/written arguments in support of his contention that the society does not fall within the purview of the J&K RTI Act, 2009.

The FAA/PIO are also directed to submit the counter statement to this 2nd appeal within a week's time after receipt of this interim order."

The appeal was again listed for hearing today on 20.10.2017. Sh. Tanveer Iqbal Malik, Additional Registrar, Cooperative Societies, Jammu-cum-FAA, Sh. Rattan Lal, Secretary, Sainik Cooperative House

Building Society Ltd., Jammu, Sh. Naresh Sharma, Deputy Registrar, Cooperative Societies (Agri), Jammu, Sh. Ranbir Singh, Counsel for the Sainik Cooperative House Building Society Ltd., Sainik Colony, Jammu and the appellant were heard through Video Conferencing from Jammu office of the State Information Commission (SIC).

The Secretary, Sainik Cooperative House Building Society Ltd., Sainik Colony, Jammu filed his counter statement/reply to the 2nd appeal and the same is taken on record. The Counsel for the Sainik Cooperative House Building Society Ltd., Sainik Colony, Jammu submitted that as far as issue of unauthorized members is concerned the election is going to be held in December, 2017 and for that a fresh electoral roll shall be prepared and published and objections, if any, received will also be entertained as per the bye laws of the society.

Directions:

After hearing the parties, the State Information Commission (SIC) observed that the FAA has failed to dispose of the First Appeal of the applicant (now appellant). More so, during the hearings of the instant 2nd appeal, the FAA and the PIO have shown their stoic silence which either displays their lack of knowledge or negligent attitude in not responding to the queries raised by the SIC. As such, the Registrar, Cooperative Societies, J&K, Jammu as Head of the Public Authority (Cooperative Department) is directed to collect the information which can be statutorily accessed by him as the Registrar from the Sainik

Cooperative House Building Society Ltd., Sainik Colony, Jammu under the provisions of the J&K Cooperative Societies Act and other statutes & Rules applicable to the Cooperative Societies and provide the same to the appellant in terms of his RTI application and the provisions of the J&K RTI Act, 2009 within one month from the date of receipt of this order. This is also in consonance with Section 2 (d) of the J&K RTI Act, 2009 which reads as under:

““Information” means any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;”

With these observations/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/40/2017

Dated: . . .2017

Copy to:

1. Registrar, J&KSIC for information and necessary action.
2. Registrar, Cooperative Societies, J&K, Jammu for information and necessary action.
3. FAA/Additional Registrar, Cooperative Societies, Jammu for information and necessary action.
4. PIO/Deputy Registrar, Cooperative Societies, Jammu for information and necessary action.
5. Private Secretary to HCIC for information of the HCIC.
6. Appellant/Col. V.S. Mangotra (Retd.), R/o. Sector E-605, Sainik Colony, Jammu for information.
7. Office file.

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