



Jammu and Kashmir State Information Commission
(Constituted under The Right to Information Act, 2009)
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Old Assembly Complex, Srinagar, 0194-2506660, 2506661
www.jksic.nic.in

File No. SIC/K/SA/35/2017
Case No. SIC/K/SA/35/2017/43

FINAL ORDER

Appellant : Sh. Mehraj-ud-Din Bhat
Respondents : First Appellate Authority (FAA)/ SDM
(East) Srinagar Public Information
Officer/ (PIO)/Tehsildar North, Srinagar.
Date of Registration : 08.06.2017
Date of Decision : 05.10.2017

Brief facts :

The brief facts of this 2nd appeal are that the appellant Sh. Mehraj-ud-Din Bhat alias (Matta) filed the 2nd appeal before the Commission on 22.05.2017 against the FAA/SDM (East) Srinagar and the PIO/Tehsildar (North) Srinagar stating that he filed two RTI applications before the PIO/Tehsildar (North) Srinagar, who responded to the same within the stipulated time period, but the information furnished is not only defective, contradictory but also misleading. Then, against the reply of the PIO he filed the First Appeal before the FAA/SD(M) Srinagar on 09.03.2017, but even after filing the first appeal, neither any information has been provided nor

any audience has been given to the despite lapse of two months. The appellant has requested the Commission to allow the 2nd appeal and pass necessary orders in view of the submissions made. On scrutiny of documents, some deficiencies were found which the appellant got completed and accordingly 2nd appeal was admitted on 08.06.2017.

As per records of the 2nd appeal, the appellant vide RTI applications dated 29.11.2016 and 02.01.2017 has sought information from the PIO/Tehsildar (North) Srinagar on various points regarding land bearing Khasra No. 1272 and 1271/1 situated at Zakoora Srinagar. The RTI application of the information seeker was responded by the PIO vide letter dated 01.02.2017. Not satisfied with the reply of the PIO, the appellant filed the First appeal before the FAA/ SDM (East) Srinagar on 09.03.2017. Later on, the appellant filed the instant 2nd appeal against the inaction of the FAA.

Proceedings before the Commission:

In response to the notice of the Commission, the PIO filed reply/counterstatement dated 30.06.2017 interalia submitting that the available information has been provided to the appellant within stipulated time. The FAA/SDM (East) Srinagar filed a detailed report dated 05.07.2017 regarding status of the land under consideration in the RTI application of the appellant. The 2nd appeal was partly heard by the Commission on 10.07.2017. Mr. Zaffar Ahmad Lone PIO/Tehsildar North Srinagar, Mr. Showkat Ahmad representing SDM (East) Srinagar and Mr. Mehraj-ud-Din, appellant attended the hearing.

The parties were heard at length. The hearing in the 2nd appeal was adjourned with the following directions:

1. PIO/Tehsildar North Srinagar is directed to hear the appellant and submit the status report within two weeks to the Commission with regard to the difference between the two sets of land records one with the department and another with the appellant and why Tehsildar/PIO is not able to provide the requisite information to the appellant (RTI Applicant) as sought by him through his original RTI application.
2. Tehsildar will attend the next hearing along with the concerned Patwari and the Records.
3. Hearing adjourned. Registry to list the case accordingly.

In compliance to the directions of the Commission passed on 10.07.2017, the PIO filed reply dated 22.07.2017 submitting therein that the status report stands already provided to the appellant. Besides, the information sought by the appellant in his first RTI application stands provided as per revenue records. Further, the PIO has submitted that the applicant has purchased land measuring 01 kanal under survey No.1272 from one Mst. Yasmeena W/o Ghulam Jeelani R/o Narbal, Srinagar through an attorney holder namely Sajad Ahmad but as per the revenue records the land in question is nowhere recorded in the name of Mst. Yasmeena. However, it is a fact that in revenue extracts on the basis of which the "Sale Deed" has been executed. Mst Yasmeen might have been shown as owner of land by the then revenue field staff.

The 2nd appeal again came up for hearing on 17.08.2017. Sh. Zaffar Ahmad Lone, PIO/Tehsildar North, Srinagar and the appellant Shri Mehraj-ud-Din Bhat attended the hearing. However, the FAA/SDM (East) Srinagar did not attend the hearing. Following interim order was issued:

During the proceedings, it came to fore that the land has been exchanged a number of times, but the changes have perhaps not been reflected in the Revenue Record i.e., there is discrepancy in the record and position on ground. Tehsildar, North, Srinagar is accordingly directed to re-examine/see the available record and provide the requisite information thereof to the appellant before the next date of hearing.

As far as information pertaining to 3rd party is concerned, Section-11 of the J&K RTI Act is clear about how to deal with third party information and the PIOs are free to process the RTI applications in terms of various sections of the RTI Act and invoke Section-11 wherever the information relates to third party.

During the proceedings, the appellant submitted a representation dated 17.08.2017, wherein he has stated that he has been threatened to withdraw the 2nd appeal under submission before the Commission. The copy of the same was provided to the PIO/Tehsildar, North, Srinagar during the proceedings for appropriate necessary action at his end.

The 2nd appeal was again heard by the Commission on 14.09.2017. During the proceedings, the PIO submitted that he has not received the interim order of the Commission dated 17.08.2017. The appellant submitted a statement indicating the discrepancies between the information that he had asked for through his RTI application dated 29.11.2016 and the information provided to him by the PIO vide letter dated 19.12.2016. During the proceedings, the PIO submitted that he may be given copy of the order of the Commission dated 17.08.2017 and also copy of the statement submitted by the appellant so that he can go through the same and submit his reply based on the available revenue records in the Tehsil. The copies of the interim order dated 17.08.2017 and the statement submitted by the appellant were provided to the PIO to enable him to file his reply accordingly.

In pursuance to the directions of the Commission, the PIO vide letter dated 28.09.2017 has provided the detailed information/revenue extracts to the appellant with copy to the Commission.

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.

The 2nd appeal again came up for hearing today on 05.10.2017. Sh. Zaffar Ahmad Lone, PIO/Tehsildar North, Srinagar and the appellant Shri Mehraj-ud-Din Bhat attended the hearing.

Decision:

The parties were heard at length and the records perused. The appellant, again submitted a statement showing the discrepancies in the

information provided to him so far by the PIO and the information sought from him through his RTI applications. The appellant has basically a grievance with the Revenue Department pertaining to demarcation of patch of land reportedly purchased by him and a dispute that has arisen as a result of lack of proper demarcation. In order to resolve the dispute, he has sought information/land records from the PIO/Tehsildar (North) Srinagar vide his RTI application under consideration in the 2nd appeal. The PIO has all along submitted that all the information as per records has been provided to the appellant. which includes extracts of Girdwari, copies of mutations and detailed reports etc. While Tehsildar/PIO has been quite cooperative and seems to have provided the requisite information from the available record with his department and field officials, the appellant is not satisfied with the information provided to him and continues to allege that incomplete and misleading information has been provided to him. In order to put the controversy at rest in the instant 2nd appeal, it will be appropriate to allow the appellant to inspect the records in the O/o Tehsildar (North) Srinagar and with the concerned field staff like Patwari etc. The 2nd appeal is accordingly disposed of with the following directions:

- 1. The PIO/Tehsildar (North) Srinagar is directed to allow the appellant to inspect the revenue records pertaining to his RTI applications in his office on the day and date mutually convenient to the parties within two weeks.*
- 2. The appellant during inspection of records may obtain copies of the records pertaining to his RTI applications, not obtained so far. The PIO/Tehsildar will also peruse the discrepancy statement submitted by the appellant today during the hearing for the same*

purpose. Registry is directed to enclose a copy of the discrepancy statement submitted by the appellant with this order.

- 3. The PIO/Tehsildar North is free to charge the fee from the appellant for inspection of records and for providing copies of other records as per provisions of the J&K RTI Rules, 2012.*

Sd/-
(Khurshid A. Ganai) IAS Retd.
Chief Information Commissioner
J&K State Information Commission

Copy to:

1. SD(M) East Srinagar
2. Tehsildar (North) Srinagar-cum-Public Information Officer
3. Sh. Mehraj-ud-Din Bhat Alia (Matta) S/o Ab. Rehmad Bhat R/o Naqashband Colony Unerheir Buchpora, Srinagar
4. Guard File

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