



**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**  
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File No. SIC/K/SA/48/2017  
Decision No. SIC/K/SA/48/2017/**58**

**(FINAL ORDER)**

Appellant : Shah Farooq  
Respondent : First Appellate Authority (FAA)/ O/o Dy.  
Commissioner Budgam, Public Information  
Officer (PIO)/Tehsildar Chrar-i-Sharief  
Date of Registration : 27.07.2017  
Date of Decision : 30.10.2017

**Brief Facts:**

The brief facts of this 2<sup>nd</sup> appeal are that the appellant Sh. Shah Farooq S/o Sh. Ghulam Hassan Shah R/o Chrar-i-Sharief Budgam filed the 2<sup>nd</sup> appeal before the State Information Commission (SIC) against the PIO/Tehsildar Chrar-i-Sharief and FAA/Dy. Commissioner Budgam on 27.07.2017. The appellant has alleged that he filed an application under the J&K RTI Act before the PIO/Tehsildar Chrar-i-Sharief on 24.05.2017 and that the PIO failed to provide him the information. Thereafter, he filed the First Appeal before the FAA/Dy. Commissioner, Budgam and the FAA without providing him an opportunity of being heard passed an order

dated 11.07.2017. The appellant has alleged that the FAA has passed the order in haste without application of mind and has ignored the relief sought. The appellant has requested the SIC to direct the concerned PIO/Tehsildar Chrar-i-Sharief to now provide him the information sought free of cost as envisaged under the RTI Act.

As per the records of the 2<sup>nd</sup> appeal, the appellant vide RTI application dated 24.05.2017 has sought the following information from the PIO/Tehsildar Chrar-i-Sharief:

- *Provide the attested copies of fresh Inthikhab-i-Jamabandi along with copies of Mutation which have been attested by the competent authority on the recommendations and sanction issued by District authorities under Roshni Act for town Chrar-i-Sharief*
- *Also provide the details of deposition of fees deposited by the persons in whose favour landed property has been allotted and transferred by virtue of mutations.*

The PIO vide letter dated 24.06.2017 has informed the appellant that the information sought by him is ready and also to deposit an amount of Rs.662 as charges/cost for the information. Not satisfied with the reply of the PIO, the appellant filed the First appeal before the FAA on 06.07.2017. The FAA has disposed of the First appeal vide order dated 11.07.2017 with directions to the PIO to provide the information to the appellant under Rules and ensure that the information sought does not pertain to the third party. The appellant then filed the instant 2<sup>nd</sup> appeal before the SIC on 27.07.2017.

### **Proceedings before the Commission:**

The 2nd appeal was partly heard on 25.08.2017. Mr Naseer Ahmad Parra, PIO/Tehsildar Charar-i-Sharief and appellant Shri Shah Farooq attended the hearing.

During the proceedings, the appellant submitted that he is entitled to receive the information free of cost in pursuance of Section 7(6) of the J&K RTI Act, 2009 because the PIO/Tehsildar Charar-i-Sharief has failed to provide him the information within the stipulated time period of 30 days. The PIO, however, stated that the information sought by the appellant had been compiled and vide letter dated 24.06.2017, the appellant was informed to deposit the charges for 28 revenue extracts @ Rs 20/- per extract and photocopy of 30 mutations @ Rs 2 per mutation. The appellant contended that the letter dated 24.06.2017 whereby he was informed to deposit the cost of information has actually been signed and despatched on 28.06.2017 and served upon him at about 8.30 PM on the same date. In this regard, the appellant also referred to a telephonic call received from one of the officials of the Tehsildar/PIO Office on 28.06.2017 informing him about the compilation of the reply to his RTI application.

*The first 60 days from the date of filing of this 2nd appeal expired on 25-09-2017. But in view of the need for conduct of more hearings for appropriate and judicious disposal of the appeal, the time period for disposal was extended by another 60 days upto 25-11-2017 in terms of proviso to Sub-section-11 of Section-16 of the J&K RTI Act, 2009.*

The 2nd appeal was again heard by the Commission on 11.10.2017. The appellant Shri Shah Farooq attended the hearing. Neither The FAA nor the PIO attended the hearing. The non-appearance of the respondents before the SIC was viewed seriously.

During the proceedings, the appellant again stated that the PIO/Tehsildar Chari Sharief has failed to implement the orders of the FAA/Dy. Commissioner, Budgam passed by him as per his order Dated 11.07.2017

The hearing in the 2nd appeal was adjourned with directions to Registry to give final opportunity to the PIO/Tehsildar Chari Sharief Budgam to appear before the SIC for hearing of the instant 2nd appeal.

The 2nd appeal came up for final hearing today on 30.11.2017. Sh. Naseer Ahmad, PIO/Tehsildar Chrar-i-Sharief and appellant Shah Farooq attended the hearing. During the proceedings, the appellant submitted that he has not received the information sought till date. The PIO submitted during the proceedings that he could not appear before the SIC on previous date of hearing because Court of Sub-judge Budgam had issued a non-bailable warrant against him to appear before his Court on that very date i.e., 11.10.2017. The PIO submitted that the information seeker vide his RTI application had sought attested copies of fresh Inthikhabi-i-Jamabandi (Revenue extracts) along with copies of mutations and accordingly he was informed to deposit the prescribed fee fixed by the Government for issuance of Revenue extracts in terms of Land

Revenue Act. The appellant submitted that he is entitled to receive information free of cost as per Section 7(6) of the J&K RTI Act, 2009.

**Decision:**

Heard both the parties and perused the records on file. The appellant has sought information/attested copies of Revenue extracts from the PIO using the RTI route. On the other hand, the PIO has informed the appellant to deposit the charges for the copies of the Revenue extract as prescribed under the Land Revenue Act and Rules. The Tehsildar/PIO has acted correctly. The appellant cannot bypass the prescribed procedure laid down by the Revenue Department in land Revenue Act and the Rules for getting the Revenue extracts by adopting the RTI route. The Hon'ble Delhi High Court in the case of Registrar of Companies & others V/s Dharmendra Kumar Garg and Another has held that:

*".... It cannot mean that information which the public authority has already-let go, i.e. shared generally with the citizens, and also that information, in respect of which there is a statutory mechanism evolved, (independent of the RTI Act) which obliges the public authority to share the same with the citizenry by following the prescribed procedure, and upon fulfillment of the prescribed conditions. This is so, because in respect of such information, which the public authority is statutorily obliged to disseminate, it cannot be said that the public authority-holds or –controls the same. There is no exclusivity in such holding or control. In fact, the control vests in the seeker of the information who has only to operate the statutorily prescribed mechanism to access the information. It is not this kind*

*of information, which appears to fall within the meaning of the expression-right to information, as the information in relation to which the –right to information is specifically conferred by the RTI Act is that information which "is held by or under the control of any public authority."*

In light of the facts/records and after due consideration, the 2<sup>nd</sup> appeal is disposed of with the following directions:

1. The appellant is directed to deposit the requisite charges/fees for information i.e. Revenue documents as prescribed under rules/laid down procedure within 10 days from the date of receipt of this order.
2. The PIO/Tehsildar Chrar-i-Sharief will then provide the information to the appellant within the prescribed time period as prescribed under the J&K Public Services Guarantee Act, 2011.
3. In view of the assertions made by the appellant about misrepresentation of dates and handling of the RTI application by the office of Tehsildar, Chrar-i-Sharief through this 2<sup>nd</sup> appeal before the SIC, the SIC in terms of powers vested in it under Section 16(9) of the J&K RTI Act, 2009 directs the Head of the Public Authority i.e., the Dy. Commissioner Budgam to take action under Section 16(9) (a)(i), 16(9)(a)(iii) by way of uploading the relevant information pertaining to the working of the Revenue Department, its functions and various services provided by it to the citizens/residents of Tehsil Chrar-i-Sharief, or till such uploading, making it available in manual form in Tehsil Office Chrar-i-Sharief for inspection by any information seeker, 16(9)(a)(iv) by way of

making improvements in the maintenance of and accessibility of revenue records in Tehsil Office Chrar-i-Sharief and 16(9)(a)(v) by way of training of the officials of Tehsil Chrar-i-Sharief in handling the RTI applications. The Dy. Commissioner, Budgam as Head of the Public Authority is also directed to streamline the working of the RTI Cell of Tehsil Office, Chrar-i-Sharief and for that he is advised to undertake a review of the handling of RTI applications by the office and of the instant RTI application which resulted in the 2<sup>nd</sup> appeal Sh. Shah Farooq V/s PIO/Tehsildar, Chrar-i-Sharief before the SIC, and in respect of which the appellant has made certain allegations.

With these directions, the 2<sup>nd</sup> appeal filed before the SIC is disposed of.

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

Copy to:

1. FAA/Dy. Commissioner, Budgam
2. PIO/Tehsildar Chrar-i-Sharief
3. Sh. Shah Farooq S/o Gh. Hassan Shah R/o Chrari-Sharief Budgam
4. Guard File

**(M.S. Bhat)**  
Dy. Registrar,  
J&K State Information Commission