



Jammu and Kashmir State Information Commission

شنیشن کمیٹ انفارمیر اسٹینیٹ کشمیر 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

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File No. SIC/J/A/62/2017/

Decision No: SIC/J/A/62/2017/87

- Appellant : Lt. Col. Bhaskar Chander (Retd.) R/o H.
No.605, Sec-E, Sainik Colony, Jammu.
- Respondents : 1. First Appellate Authority, Addl. Registrar,
Cooperative societies, Jammu.
2. Deputy Registrar (Agri) Cooperative societies,
Jammu.
- Date of Registration : 22.08.2017
- Date of Decision : 12.12.2017

Final Order

12.12.2017

Appellant present
Respondents present

Brief Facts:-

The applicant namely Lt. Col. Bhaskar Chander filed an RTI application on 6th of June, 2017 with Public Information Officer, Co-operative Societies J&K seeking information about the law, rule or by-law under which Hav. Amar Singh

has been appointed as Chairman of Sainik Co-operative House Building society, Sainik Colony, Jammu in place of Brig. S.S. Sambyal. The PIO (Dy. Registrar Counsel), Co-operative Societies, J&K vide his communication No.RCS/RTI/15/58 dated 19.06.2017 informed the applicant that in terms of Section-70 of the J&K Co-operative Societies Act, 1989, the Registrar Co-operative Societies has decided the matter declaring that Shri S.S. Jamwal has lost the majority support of Board of directors of the society and upholding the resolution passed by majority vote electing Shri Amar Singh as the Chairman. Not satisfied with the reply furnished by the PIO, the applicant filed 1st appeal before Addl. Registrar Co-operative Societies on 6th of July, 2017.

The FAA vide his communication No.RTI/Apl-03/105 dated 5.8.2017 informed the appellant to attend his office and collect the additional information containing 33 leaves after depositing Rs.66/- as copying charges. Instead of collecting the information from FAA, the appellant filed this appeal before the SIC.

The 2nd appeal was admitted by the State Information Commission on 25.8.2017 after due consideration. The first hearing of the appeal took place on 3.10.2017. The hearing was attended by Addl. Registrar, Co-operative Societies, Jammu and Dy. Registrar Agriculture, Jammu through Video Conferencing from Jammu office of SIC. The appellant attended the hearing through video

conferencing from Jammu office of SIC. Since the PIO of the O/o Registrar was Dy. Registrar (Counsel), who has replied to the RTI applicant, the Commission directed the Dy. Registrar (Counsel) to attend the next hearing along with FAA, with relevant records and counter statement to this 2nd appeal.

The case again came up for hearing today on 12.12.2017 before the Commission which was attended by the appellant as well as PIO/FAA in person. The PIO also filed the counter-statement, which was taken on record. The PIO/FAA also produced the record including the order passed by the Court of Registrar, Cooperative Societies declaring Shri Amar Singh as Chairman duly elected by majority vote, copy of the judgment of special Tribunal, J&K dated 16.02.2016 setting aside the order of Registrar and copy of the order dt. 25.2.2016 of Hon'ble High Court in OWP No.240/2016 directing maintenance of status quo as it existed on that day.

Decision:-

On perusal of the record produced by the PIO/FAA, the Commission found that Shri S.S. Sambyal, the then Chairman of the Sainik Society was replaced by Shri Amar Singh by virtue of a resolution passed by the Board of Directors of the Society by a majority of 4:3, which was upheld by the order of the Court of Registrar vide its order dated 30.10.2015. The said order has been passed by the Registrar in exercise of his power vested in him under Section-70 of the J&K Co-

operative Societies Act empowering the Registrar to settle disputes regarding management of the Society and between the Society and its members. The function of dispute resolution under section 70 of the Co-operative Societies Act is a quasi-Judicial function and can be called in question only through an appeal before the J&K Special Tribunal. Therefore, the issue whether the Registrar Co-operative Societies has rightly settled the dispute upholding the resolution passed by a simple majority of 4:3 or that it has been erroneously settled can only be adjudicated by the Tribunal in appeal, which infact has been done in this case by the Special Tribunal setting aside the order of the Registrar. Shri Amar Singh aggrieved by the order of the Tribunal, challenged the same before the Hon'ble High Court in its writ jurisdiction and the Hon'ble High on 25.02.2016 directed that status quo as it existed on that date be maintained. Now what was the exact status on 25.02.2016 and who was occupying the position of Chairman on that day, is a question of fact best known to the department itself. The PIO/FAA submitted that Shri Amar Singh was occupying the chair on the crucial date viz 25.02.2016 following the declaration made by Registrar Co-operative Societies that he has been duly elected as the Chairman and in view of the status quo order of the Hon'ble High Court, he had to be allowed to continue as Chairman. On the other hand, the appellant contended that following the setting aside of the order of the Registrar by the Special Tribunal, Sh. S.S. Sambyal should have been allowed to

occupy the chair and the order of Hon'ble High Court meant that Mr. Sambyal should continue as Chairman.

The issue is of the interpretation of the order of Hon'ble High Court and the actual status existing on 25.2.2016 in respect of the occupying of the position of the Chairman on that date. This is something the State Information Commission cannot adjudicate in this appeal. In case the appellant feels that order of status quo issued by Hon'ble High Court has been violated by the public authority or that it has been wrongly interpreted or applied, he can approach the Hon'ble High Court with a contempt petition, which alone is empowered to adjudicate upon such issue.

The only information sought by the appellant through his RTI application was that the copy of law, rule or by-law under which Shri Amar Singh has been appointed as Chairman of Sainik Co-operative Society be provided to him. The said information has been duly furnished to the appellant by the PIO informing him that Shri Amar Singh has been appointed as Chairman way of resolution passed by a 4:3 majority of the Board of directors which was upheld by the Order of the Registrar Co-operative Societies issued in exercise of the powers vested in him under Section 70 of the J&K State Co-operative Societies Act, 1989. Even a copy of the relevant provision of the Act has been furnished to him. The Commission, therefore, feels that sufficient compliance has been made by the PIO of the provisions of the RTI Act. Should Shri Amar Singh continue as Chairman in view

of the Hon'ble High Court order directing maintenance of status quo existing on 25.02.2016 or not is a question to be decided by the Court of competent jurisdiction and the indulgence of the State Information Commission is neither warranted nor called for in such an issue. With these observations the appeal is accordingly disposed off.

Sd/-
(Mohammad Ashraf Mir)
State Information Commissioner

Copy to:-

1. First Appellate Authority, Addl. Registrar, Co-operative Societies, Jammu/Deputy Registrar (Agri) Co-operative societies, Jammu.
2. Appellant, Lt. Col. Bhaskar Chander (Retd) R/o H. No.606, Se-E, Sainik Colony.
3. Office File.

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