



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/91/2017

Decision No. SIC/K/SA/91/2017/**89**

Final Order

Appellant : Advocate Qazi Ayaz and Advocate Khud Isfandyar

Respondent : First Appellate Authority (FAA), / Public Information Officer (PIO), Srinagar Municipal Corporation (SMC) Srinagar

Date of Registration : 15.11.2017

Date of Decision : 16.01.2018

Brief Facts:

The brief facts of this 2nd appeal are that the appellants Advocate Qazi Ayaz and Advocate Khud Isfandyar filed the 2nd appeal before the State Information Commission (SIC) on 16.10.2017. On scrutiny of documents enclosed with the 2nd appeal, it was found deficient with regard to information received by the appellants on 17.04.2017 from the PIO, SMC as required under Rule 7 of the J&K RTI Rules 2012. Further, the 2nd

appeal was submitted without the Index documents and also that the 2nd appeal was barred by limitation. After completion of deficiencies on 03.11.2017 and condonation of delay by the SIC, the 2nd appeal was finally admitted for adjudication on 15.11.2017.

In the instant 2nd appeal, the appellants have submitted that they filed an RTI application with PIO, Srinagar Municipal Corporation (SMC) under Right to Information Act on 09.03.2017 seeking information regarding commercial building permission granted from 2013 onwards till date in Barbarshah, Nai Sarak, kaka Road, Munwar Abad, Habbakadal Srinagar particularly permission granted in favour of Nana Khan (Hotel name Gulstar) & other hotels constructed in the said area. That instead of providing proper information, the PIO provided wrong and misleading information on 17.04.2017. Thereafter, the appellants filed the First Appeal before the FAA on 29.04.2017 against the misleading, half and wrong information and the FAA disposed of the First Appeal directing the PIO to provide information to the appellant within the stipulated period. That even after the orders of the FAA, the PIO did not provide any information so far. The appellants have alleged that the FAA is shielding the PIO and both the PIO and the FAA are in league & are protecting each other and also shielding other functionaries of the department who have granted permission illegally in favour of many people in violation of Municipal Rules. The appellants further prayed that action as warranted under the provisions of the Right to Information Act, 2009 be initiated against the respondents by imposing costs on them besides the respondents be directed to provide the requisite information as per their application.

As per documents on the file, the applicants have filed the RTI application before the PIO SMC on 09.03.2017 seeking information regarding commercial building permissions granted from 2013 onwards till date (09.03.2017) in Barbarshah, Nai Sarak, kaka Road, Munwar Abad, Habbakadal Srinagar particularly permission granted in favour of Nana Khan (Hotel name Gulstar) & other hotels constructed in the said area.

By way of counter reply, the PIO vide letter dated 18.12.2017 addressed to the SIC has stated that in response to the RTI assistance has been sought from the Divisional Town Planner (Right) and Ward officer Ward No. 05 vide letter dated 03.04.2017. After receipt of information from the Ward Officer Ward No. 05 along with building permission copy of the same containing 06 leaves was sent to the information seeker vide letter dated 15.04.2017.

Subsequently, the first appeal was filed by the information seeker and accordingly information was sought from Divisional Town Planner vide letter dated 27.03.2017 besides the applicant was also requested to attend his office vide letter dated 11.05.2017. Further, the Jt. Commissioner (planning) (JCP) furnished information vide letter dated 04.12.2107, the same was sent to the information seeker separately vide letter dated 13.12.217. Moreover the JCP stated " However, voluminous information sought by the information seeker under J&K RTI Act, 2009 is not possible to provide as it involves lot of time and manpower".

Proceedings before the SIC:

The 2nd appeal came up for hearing today on 16.01.2017. Mr. Gh. Hassan Mir, Jt. Commissioner Planning (JCP) attended on behalf of the PIO who was reportedly on leave and Mr Suhail Nabi, Assistant Secretary/APIO SMC attended the hearing. The appellants did not attend.

During the hearing, the JCP, on enquiry as to why information had not been provided, stated that the information stands already provided to the appellants vide letter dated 13.12.2017 and that the PIO in his letter dated 18.12.2017 had informed the appellants that information sought by the information seekers under J&K RTI Act, 2009 is voluminous and is not possible to provide as it involves lot of time and manpower. The response of the PIO and JCP was considered and documents on file perused.

Decision/Directions:

The PIO has raised the plea of information being sought as voluminous and that it was not possible to be given. This plea does not appear to be convincing as listing of permission cases of commercial buildings in certain areas of the city from the available record should not require much labour or diversion of resources. In fact, this type of information and such like information should be available suo-moto in terms of Section 4(1) (b) of the J&K RTI Act, 2009. The plea therefore is not convincing and cannot be accepted. The SMC must take substantive steps to implement Section-4 provisions and share as much information suo-moto as possible on line through its website and other methods of

public outreach using the new media protocols. In this 2nd appeal, therefore, the SMC is directed to compile and prepare the list of permission cases of commercial buildings in the identified areas where permission has been granted by the SMC since 2013. In addition, the appellant may be allowed inspection of available records for the remaining/balance information, if any, strictly in terms of the information sought and the provisions of the J&K RTI rules, 2012.

With the above directions, the 2nd appeal filed before the SIC is disposed of

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

(S. Sajad Ahmad)

Copy to:

1. FAA/Commissioner, SMC Srinagar
2. Jt. Commissioner, Planning SMC Srinagar
3. PIO/Secretary SMC Srinagar
4. Appellant—Advocate Qazi Ayaz And Advocate Khud Isfandyar Chamber No.39, J&K High, Court Srinagar

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