



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/J/A/153/2017

Decision No. SIC/J/A/153/2017/**178**

Final Order:

Appellant : Sh. Sunil Kumar, S/o Sh. Bhagat Ram,
R/o Railway Line, Kotli, Shah Doula, Tehsil R.S Pora,
District Jammu

Respondent : FAA/PIO, Agricultural Department, Jammu.

Date of Registration : 20-11-2017.

Date of decision : **16-03-2018.**

Decision : Appeal disposed of.

Brief Facts:

Briefly, the facts of this case are that the appellant Sh. Sunil Kumar, while exercising his right to information filed an RTI application with the Public Information Officer (PIO) Chief Agriculture Officer (CAO) Jammu on 27-05-2017 seeking following information:

1. How much total amount has been released so far by Central and State Government to Seed Multiplication Farm, Chinore. Provide the copy of release order by Director Agriculture or other concerned authority of Agriculture Department Jammu for last two years;
2. Provide detailed information regarding the utilization of funds for last two years;

3. Details of sale and purchase for Seed Multiplication Farm Chinore. Provide the detailed information with certified vouchers, quotations, contingent register, dispatch register, record register. What is the guideline of Sale or Purchase;
4. If any auction for last two years, please provide the NIT with the receipt of information department;
5. Provide detailed information of development work/path in Seed Multiplication Farm Chinore with the guidelines of development work-
 - a) Copy of M. Book.
 - b) Copy of Bill Form.
 - c) Copy of work Register.
6. Copy of NIT of Development work/path with the receipt of Information Department;
7. Provide the full details of information regarding the full period of Mr. Sham Lal as a cashier;
8. Total vouchers dealt by Sham Lal as a cashier such as dispatch register, contingent register. What is the guidelines of voucher payment.

The Chief Agriculture Officer, Jammu transferred the RTI application of the applicant to Farm Manager, Seed Multiplication Farm, Chinor under section 6(3) of the RTI Act for providing information to the applicant directly. However, as no information was provided to the applicant by the PIO, he filed the 1st appeal with Director Agriculture, Jammu. The FAA did not dispose the 1st appeal and the applicant filed 2nd appeal before the State Information Commission (SIC).

Proceedings before the State Information Commission(SIC):

The instant 2nd appeal was listed for hearing before the State Information Commission on 15-01-2018. The hearing was attended by First Appellate Authority

(FAA), Public Information Officer (PIO), Agriculture Department and the appellant. After hearing the parties, the appeal was adjourned with the direction to the appellant to visit the O/O Farm Manager, Chinore for having the inspection of the relevant records. The PIO was also directed to allow such inspection and provide copies of the information as may be required by the appellant after such inspection.

The appeal again came up for hearing before the SIC on 16-03-2018. The hearing was attended by Chief Agriculture Officer and the appellant.

Decision:

During the last hearing held on 15-01-2018, the PIO and FAA had assured the Commission that in view of voluminous information sought by the appellant, the respondents would allow the appellant to have inspection of records and to take relevant copies after such inspection. The appellant had agreed to have the inspection. The appellant and the respondents had mutually fixed 22nd of January 2018 as the date for inspection of records by the appellant.

During today's hearing, the appellant submitted that Farm Manager, Chinore has denied inspection of records to the appellant on one pretext to other. He submitted that on the fixed date i.e on 22-01-2018, he visited the O/O the Farm Manager, Chinore. The Farm Manager informed the appellant that the Defense Authorities have put some restrictions in the Farm Area in view of tension on the International Border on that date due to firing/mortar shelling in the area and hence it would be difficult to have inspection. Accordingly, 28-01-2018 was fixed as the next date for such inspection. The appellant stated that 28-01-2018 being a Sunday, the appellant visited the O/O the Farm Manager on 29-01-2018 (Monday) for having inspection of records. However, the Farm Manager informed the appellant that it will take some time to him to locate the record and as soon as the relevant record are

located, he would inform the appellant and fix a date for inspection of the records. The appellant accordingly provided his contact number to the Farm Manager so that he could be informed about the next date by Farm Manager. The appellant also stated that the Farm Manager thereafter never contacted or informed the appellant about the date of inspection. Instead the appellant tried to contact the Farm Manager a number of times but the Farm Manager never received the call of the appellant. The appellant also stated that during his visit to the Chinore farm on 22-01-2018 the Farm Manager misbehaved with him in order to dissuade him from seeking the information. The appellant also stated that he has a video about the arrogance shown by the Farm Manager. The appellant further stated that the Farm Manager does not want to provide access to the appellant to the records of his office and therefore, he is trying every trick to deny the information and also deny inspection of records.

The Chief Agriculture Officer (CAO), Jammu stated during the hearing that the information sought by the appellant is held by Farm Manager, Chinore farm who is the under the administrative control of Joint Director, Agriculture Extension, Jammu as the PIO at Divisional Level. The CAO also stated that it was for this reason the RTI application of the appellant was transferred to Farm Manager, Chinore for supplying the information directly to the appellant. The CAO, also produced a communication dated 01-02-2018 from S.C Anotra, Farm Manager Seed Multiplication Farm, Chinore informing that the inspection fixed for 22-01-2018 could not be held in view of the restricted movement in farm area due to tension at the Border on that date and therefore, 28-01-2018 was fixed for next date of inspection. However, the appellant did not attend the office on 28-01-2018. The CAO, also informed the SIC that the records relating to the information sought by the appellant have been kept ready by the Farm Manager for inspection by the appellant and the appellant is welcome to have the inspection on any day.

Since the RTI application filed by the appellant on 27-05-2017 was transferred by the CAO, Jammu to farm Manager, Chinore on 01-06-2017 in terms of section 6(3) of the J&KRTI Act, the Farm Manager, Chinore was under statutory duty to provide the information to the appellant within specified time. The conduct of Farm Manager in the present case reflects the discomfort of the Farm Manager in parting away with the information sought by the appellant. In the first place he asked the appellant to deposit an amount of Rs 50,000/- as copying charges, which in no case can be said to be a reasonable demand particularly when the Farm Manager was not himself aware as to how many pages the information sought by the appellant would ultimately make. Denying the opportunity of inspection to the appellant on the mutually fixed date of 22-01-2018 on the ground of disturbances at the Border also seems to be a subterfuge for denying the access to records as the office was very much functioning on that date. On 29-01-2018, the farm Manager cited some technical snag in the Photostat Machine to avoid inspection on that date. The Farm Manager never informed the appellant about the next date of inspection inspite of assurance to the appellant and also avoided to pick up his phone, whenever the appellant tried to contact him for informing the next date of inspection. The attitude of the Farm Manager not only exhibits arrogance but also reflects a conduct which is unbecoming of a Government Servant and a disdain for the provisions RTI Act. Denial of information is not only a violation of a statutory right of the appellant under the RTI Act, but also infringement of his fundamental right of freedom of speech and expression guaranteed to him under the Constitution of India, as applicable to State of Jammu and Kashmir. Any officer whose assistance is sought by the PIO is under a statutory duty to render the assistance sought and for the purpose of any contravention of the provisions of the Act, such officer is accountable and liable to the penalty under the Act. The concerned PIO/ Joint Director, Agriculture Extension, Jammu has also failed to discharge his responsibilities under the Act. Therefore, the PIO/Joint Director, Agriculture Extension,

Jammu and Farm Manager, Seed Multiplication Farm, Chinore are liable to penalty under section 17 of the J&K RTI Act for not providing access to records/information to the appellant inspite assurance given by them before the SIC. However, before the penalty proceedings are initiated against them the PIO/Joint Director, Agriculture Extension, Jammu and Farm Manager Seed Multiplication Farm, chinore, an opportunity of being heard is required to be given to the PIO and Farm Manager by way of personal hearing or by submission of statement of their defense.

In view what has been stated above, the appeal is disposed of with the following directions:

- 1. The PIO/Joint Director, Agriculture Extension, Jammu and Farm Manager, Seed Multiplication Farm, Chinore are directed to provide an opportunity of inspection of records to the appellant within a period of 15 days from the today. The PIO shall personally ensure that such inspection of records by the appellant is facilitated and no excuse is made to deny the opportunity of inspection to the appellant. For this purpose, the PIO and the Farm Manager shall inform the appellant the date on which such inspection would take place and give access to all records that are relevant in respect of his RTI request.***
- 2. In case the inspection is not allowed to the appellant on any pretext, the appellant shall be at liberty to file a complaint before the SIC under section15 of the RTI Act.***
- 3. The Registry is directed to initiate penalty proceedings against PIO/Joint Director, Agriculture Extension, Jammu and Farm Manager, Seed Multiplication Farm, chinore for denying inspection of the records to the appellant inspite of the directions of the State Information Commission.***

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(Mohammad Ashraf Mir),
State Information Commissioner,

No. SIC/J/A/153/2017

Dated: / /2018.

Copy to the:

- 1 First Appellate Authority (FAA) Director Agriculture, Jammu for information.
- 2 Public Information Officer (PIO), Joint Director Extension, Jammu for information and compliance.
- 3 Farm Manager, Seed Multiplication Farm, Chinor for information and compliance.
- 4 PS to SIC for information of HSIC.
- 5 Sh. Sunil Kumar, S/o Sh. Bhagat Ram, R/o Railway line, Kotli, Shah Doula, Tehsil R.S Pora, District Jammu.
- 6 Guard file.

(Sheikh Fayaz Ahamd)
Registrar,
J&K State Information Commission.