



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/14/2017

Decision No. SIC/K/SA/14/2017/**02**

Final Order

Appellant : Sh. Moti Lal Harkara

Respondent : First Appellate Authority (FAA)/ Addl.
Supdt. of Ploice (Hqrs) Budgam and
Public Information Officer (PIO)/
Dy. SP (Hqrs) Srinagar

Date of Registration : 07.02.2018

Date of Decision : 09.04.2018

Brief facts:

The brief facts of this 2nd appeal are that one Shri Moti Lal Harkara filed an RTI application before the PIO O/o SSP Budgam on 05.06.2017 seeking information on action taken regarding trespassing and encroachment on his land at Kh. No.6, 15 and others situated at Sharifabad, Tehsil and District Budgam. The FAA O/o SSP Budgam transferred the RTI

application to PIO/DySP (Hqrs) Srinagar on the grounds that the said land did not fall within the jurisdiction of Police District, Budgam, and it was part of the jurisdiction of Police District, Srinagar and Police Station, Parimpora. Accordingly, the PIO of the Police District, Srinagar (Dy.SP (Hqrs) Srinagar) provided the requisite information to the appellant and also enclosed a copy of the report from the SHO, Parimpora.

In his 2nd appeal filed on 28.12.2017 but admitted on 07.02.2018 after completion of deficiencies, the appellant had submitted “that the information given to him by PIO/DySP (Hqrs) Srinagar is vague and that all points have not been replied leaving the appellant with no alternative but to file the 2nd appeal. That the response supplied is far-far away from the actual facts because theft of clay has been committed in the month of March, 2017 and response dated 26.09.2017 has been made available to the appellant on 9.10.2017 i.e. the date on which appellant received the same.”

This 2nd appeal came up for hearing firstly on 20.03.2018, which was attended by Mr. Abdul Majid Malik, FAA/Addl. SP, Budgam and Mr Irshad Hussain Rather PIO/DySP (Hqrs)

Srinagar. After hearing the 2nd appeal, the following directions were issued:

In view of the absence of the appellant and with a view to provide him another opportunity to make his submissions before the Commission and also in respect of the counter statement dated 12.02.2018 sent to him by the PIO/PIO/DySP (Hqrs) Srinagar. The hearing was adjourned.

The first 60 days since the date of filing of this 2nd appeal expired on 07.04.2018. But in view of the need for conduct of more hearings for appropriate and judicious disposal of the appeal, the time period for disposal is extended by another 60 days w.e.f 07.04.2018 in terms of proviso to Sub-section-11 of Section-16 of the J&K RTI Act, 2009.

This 2nd appeal came up for hearing again today on 09.04.2018. The appellant was not present during the last hearing and once again he did not attend the hearing today. The reply filed by the PIO/DYSP (Hqrs) Srinagar was perused along with the report of SHO Parimpora. From the report of the SHO Parimpora enclosed with PIO's reply, it transpires that the subject matter of this RTI is trespassing/encroachment of land

reportedly owned by the appellant Sh. Moti Lal Harkara. Such encroachments of migrant land are to be handled by the DC of the District who is the custodian of the Migrant property under the **J&K Migrant Immovable Property (Preservation & Restraint on Distress Sales) Act of 1997**. It would therefore be best for the appellant to approach the D C Budgam as the land is part of District Budgam, Tehsil Budgam for removal of any encroachment from his land. The DC/Revenue Department can then seek Police assistance for implementation of the orders of the competent authority thereof. In the mean time, the PIO/DySP (Hqrs) Srinagar of District Police Srinagar is directed to ascertain the present position of the land through SHO of Police Station Parimpora and send the information so collected to the RTI applicant by way of reply to his RTI application. This may be done within 21 days from the receipt of this order. If there is any complaint pending with the SHO, Parimpora from the Revenue Department or from the appellant that may also be examined and considered for action under law. **A copy of this order shall go to the parties and also to DC Budgam and SSP Srinagar for information and further necessary action.**

With these directions, the 2nd appeal filed before the State Information Commission is disposed of.

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

(S. Sajad Ahmad)

Copy to:

1. Dy. Commissioner, Budgam
2. Sr. Supdt. of Police, Srinagar
3. FAA/ Addl. Supdt. of Police (Hqrs) Budgam
4. PIO/ Dy. SP (Hqrs) Srinagar
5. Pvt. Secretary to HCIC for information of HCIC
6. Appellant—Sh. Moti Lal Harkara S/o Late Mahand Joo Harkar R/o Flat No.5-A, Block-A, Sector-2, Pkt III, Channi Himmat, Jammu

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