



Jammu and Kashmir State Information Commission
 (Constituted under the Right to Information Act, 2009)
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Old Assembly Complex, Srinagar, 0194-2506660, 2506661
www.jksic.nic.in

File No. SIC/K/SA/27/2018
 Decision No. SIC/K/SA/27/2018/**04**

Final Order

Appellant : Dr. Hamid Aftab R/o Radio Colony,
 Rajbagh, Srinagar

Respondent : First Appellate Authority (FAA)/ Vice
 Chairman, Lakes and Waterways
 Development Authority (LAWDA)/ Public
 Information Officer (PIO)/Secretary

Date of Registration : 08.03.2018

Date of Decision : 10.04.2018

Brief Facts:

The brief facts of this 2nd appeal are that Dr. Hamid Aftab submitted an RTI application before the PIO/Secretary LAWDA on 06.09.2017 asking for the photocopy of building permission granted

to erstwhile CIE Shalimar in the name of Mr. Mohammad Ashraf Mir for construction of commercial building. Aggrieved by the response of the PIO, he filed First Appeal before the FAA/VC LAWDA on 03.11.2017. As per the memo of the 2nd appeal filed before the State Information Commission (SIC) on 08.03.2018, the appellant has stated as under:

That an RTI application was filed by me under Section 6 of the J&K RTI Act, 2009 seeking certain information from PIO LAWDA. That PIO vide letter dated 21.09.2017 asked me to deposit an amount of Rs 920/- as copying charges in the shape of demand draft pledged to FA &CAO LDA Srinagar. That after depositing the fee, the PIO vide order dated 25.10.2017 provided me 13 leaves of drawing sheets which are not only irrelevant but have never been sought by me. Thereafter the appellant filed First Appeal before FAA/VC LAWDA on 03.11.2017 but the FAA failed to adjudicate the said appeal within time frame as provided under the J&K RTI Act. Accordingly, the appellant filed the 2nd appeal before the SIC with the following prayer:

- 1. That relevant documents viz building permission issued for construction of commercial building at Shalimar be provided to me.**
- 2. That action under relevant provisions of the Act may be initiated against both PIO as well as FAA for utter disregard and malafide intention towards the Act and towards the application.**
- 3. That fee charged from the appellant/RTI applicant may be reimbursed to me and compensation of Rs 50,000/- be paid to the appellant for knowingly and intentionally wasting the appellant's time in connection with visiting a bank for preparing bank draft and another day for visiting the office of the PIO.**

The 2nd appeal came up for hearing first time today on 10.04.2018, which was attended by Ms Sumara Shamim PIO/Secretary LAWDA. She stated that the appellant was called to appear for hearing in the First Appeal by the FAA vide letter date 14.11.2017, but he chose not to attend. The PIO has also submitted a

counter statement dated 17.03.2018 through which she has intimated as under:

1. This office received application on 06.09.2017 wherein the applicant asked photocopy of the building permission granted to erstwhile CIE, Shalimar for construction of commercial building.
2. The same was forwarded to I/C Building Permission Section.
3. That I/C building permission replied with the remarks that the applicant be asked to deposit Rs 920/- as photocopy charges.
4. The same was conveyed to the applicant vide letter dated 21.-09.2017
5. The applicant then submitted the requisite amount in the shape of DD favoring FA&CAO and the information was given to him vide letter dated 25.10.2017
6. The applicant then filed first appeal before the FAA on 03.11.2017
7. The FAA desired that the applicant should be asked to attend his office on 17.11.2017 and the same was conveyed to the

applicant vide letter dated 14.11.2017 but the applicant neither attended nor responded to the said letter.

The PIO has further submitted that the information as sought was completely provided to the applicant in the first instance. The allegations that the PIO has knowingly given incorrect, incomplete, irrelevant and misleading information are unfounded and preposterous.

From the perusal of papers on the file and the statement of the PIO that the appellant did not appear before the FAA despite notice, it is clear that the forum and facility of First Appeal as provided under the J&K RTI Act, 2009 has not been utilized by the appellant as provided under the Act. There is no evidence to show that the FAA has afforded adequate opportunity of being heard to the appellant in respect of his First Appeal nor the FAA has disposed of the First Appeal through a reasoned order. The appellant has stated in his 2nd appeal that the FAA has failed to adjudicate his First Appeal within the stipulated time frame which is found correct in the absence of any order of the FAA on record. Therefore, this 2nd appeal is remanded to the FAA/VC, LAWDA for hearing the First Appeal afresh for disposal in terms of provisions of the Act **(Section-16)**. The appellant is free to

file a fresh 2nd appeal before the SIC in case he is not satisfied with the disposal of the FAA.

The 2nd appeal filed before the SIC is accordingly disposed of with the above directions.

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

Copy to the:

1. FAA/VC LAWDS Srinagar
2. PIO/Secretary LAWDS Srinagar
3. Pvt Secy to HCIC
4. Appellant-Dr. hami Aftab R/o Radio Colony Rajbagh,
Srinagar

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