



Jammu and Kashmir State Information Commission

شہن یشن کمیٹ انفارمیر اسٹینڈ 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

www.jksic.nic.in

File No. SIC/J/A/154/2017

Decision No. SIC/J/A/154/2017/183

Final Order

(Second Appeal)

- Appellant : Sh. Karam Chand,
S/o. Late Sansar Chand,
R/o. Village Jarain Tehsil Rajpura,
District: Samba.
- Respondents : First Appellate Authority (FAA)/
Public Information Officer (PIO), O/O Deputy
Commissioner, Samba.
- Date of Registration : 15.11.2017
- Date of Decision : 22.03.2018

Brief Facts:

The appellant Sh. Karam Chand, S/o. Late Sansar Chand, R/o. Village Jarain Tehsil Rajpura, District: Samba filed 2nd appeal under section 16 (4) of the J&K RTI Act, 2009 with the J&K State Information Commission interalia stating that he had filed an RTI application with the PIO, O/O Deputy Commissioner, Samba (received in the office of PIO on 19.04.2017) and sought information '*whether the mutation of ownership rights of land measuring 7 kanals, 12 marlas under khasra No. 221 of village Chack*

Bhagta, Tehsil Rajpura, District Samba, have been vested in favour of the applicant along with his real brother Asha Anand regarding which Naib Tehsildar Rajpura had forwarded the application (s) vide his No. 64 and 65 dated: 29.11.2007.'

Feeling aggrieved by the response of the PIO, the appellant preferred First Appeal on 16.06.2017 before the FAA/Assistant Commissioner, (Revenue), Samba. The FAA too could not provide him the requisite information. At last, the appellant approached the State Information Commission (SIC) by filing 2nd appeal which was admitted on 15.11.2017.

In his 2nd appeal, the appellant has stated that the FAA/Assistant Commissioner (Revenue), Samba has not decided the First Appeal till the date of filing of the 2nd Appeal and the PIO/Tehsildar, Samba has provided incomplete information.

Proceedings:

The statutory time period of sixty days in this 2nd appeal has expired on 14.01.2018 and accordingly the time period for disposal was extended by another sixty days in terms of section 16 (11) of J&K RTI Act, 2009 to enable the SIC to conduct more hearings for judicious and appropriate disposal in the interest of the objectives of the J&K RTI Act, 2009.

The 2nd appeal came up for hearing for the first time on 19.01.2018. The hearing was attended by FAA/AC (R), Samba, whereas, the PIO as well as the appellant did not attend. The FAA/AC (R), Samba submitted his counter reply dated: 10.01.2018 to the 2nd appeal and also stated before the State Information Commission (SIC) that the appellant filed the First

Appeal before him on 20.06.2017, and that after granting an opportunity of being heard to the appellant as well as to the PIO, the First Appeal was disposed of on 21.07.2017 with observations that the information sought by the appellant cannot be provided due to non-availability of record with the PIO.

The hearing in the Commission on 19.01.2018 was adjourned with the following directions:

“The State Information Commission (SIC) observed that since the appellant and the PIO were not present for hearing and with a view to provide them another opportunity of being heard, the hearing of this 2nd appeal is adjourned. The PIO and the appellant are, therefore, directed to remain present on the next date of hearing.”

The appeal again came up for hearing on 15.02.2018. The hearing was attended by PIO/Tehsildar, Samba as well as the appellant alongwith his counsel.

The PIO submitted that the record/information requisitioned by the applicant (now appellant) in his RTI application is not available as the same has been destroyed in the year 2008 during Amar Nath Yatra agitation. The hearing was adjourned with the following directions:

“After perusal of the papers on the file and after hearing the parties, the State Information Commission directs the Deputy Commissioner, Samba to nominate/appoint an officer not below the rank of Additional Deputy Commissioner to enquire and ascertain the facts as to whether the record in question has been destroyed/burnt or is still available with the department or even with another Public Authority. The needful may be got done within 15 days time from the date of receipt of this office and the

outcome of the enquiry be placed before the Commission on the next date of hearing.”

The appeal again came up for hearing today on 22.03.2018. The hearing was attended by the FAA/Assistant Commissioner (Revenue), Samba. The appellant alongwith his counsel also attended the hearing.

Decision/Directions:

The FAA/AC (R), Samba has placed on record a report in terms of the last interim order passed by the Commission on 15.02.2018. The report has been forwarded to the Commission by DC, Samba under No. DCS/RTI/17-18/550 dated: 22.03.2018. The report submitted by the Additional Deputy Commissioner, Samba was perused carefully and it is found to be superficial, not made on the basis of an in-depth enquiry which was required to be held in the matter. The displeasure of the State Information Commission on this account is conveyed to the Deputy Commissioner, Samba as the report has been forwarded by her, apparently without appropriate application and consideration. Accordingly, the DC, Samba is again directed to have an in-depth enquiry conducted and then submit a specific finding whether the record in question has been burnt or not and also whether a copy is available in some other office. The needful shall be done within 30 days from the date of receipt of this order and a compliance report submitted to the Commission with a copy to the appellant. The PIO shall personally monitor the progress of implementation

of these directions. The appellant is free to file a complaint in case of non-compliance of the decision of the Commission.

*With these observations/directions the second appeal is disposed of.
Copy of this decision be given free of cost to the parties.*

Sd/-
(Khurshid A. Ganai)
Chief Information Commissioner
J&K State Information Commission

(P.A. Ajay)

No: SIC/J/A/154/2017 _____

Dated:

Copy to:

1. Deputy Commissioner, Samba for information and necessary action.
2. FAA/Assistant Commissioner (Revenue), Samba for information.
3. PIO/Tehsildar, Samba for information and necessary action.
4. Private Secretary to CIC for information of the HCIC.
5. Appellant/Sh. Karam Chand, S/o. Late Sansar Chand, R/o. Village Jarain, Tehsil Rajpura, District Samba for information.
6. Office file.

(Sheikh Fayaz Ahmed)
Registrar
J&K State Information Commission