



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/240/2018

Decision No. SIC/J/A/240/2018/203

Final Order:

Appellant : Sh. Jitinder Sharma, S/o Bal Krishen Sharma, H.No-42, Mast Grah, Peerkho Road, Jammu.
Respondent : FAA/PIO, Jammu Municipal Corporation.
Date of Registration : 08-03-2018.
Date of decision : **16-04-2018.**
Decision : Appeal disposed of.

Brief Facts:

The present appeal has arisen out of RTI request filed by Mr. Jitinder Singh on 29-10-2017 with Public Information Officer (PIO) Secretary Jammu Municipal Corporation seeking following information:

- i. Action taken on complaints submitted on 07-08-2017, 03-10-2017 and 23-10-2017 addressed to the Commissioner, JMC, Jammu, Joint Commissioner, JMC, Jammu received in the office of JMC, Jammu under Receipt Nos 3580, 5527 and 6171 respectively;

- ii. Information about approved building site plan issued by Jammu Municipal Corporation, Jammu for construction of residential/commercial building at Plot No-442-A at near sawhney Bus Stop, Gandhi Nagar, Jammu in favour of owner of the plot No-442-A (above), Sanjay Kumar Sharma S/O Sh. Bal Krishan Sharma;
- iii. Information about fee deposited by the owner of the Plot No-442-A(Above), Sanjay Kumar Sharma S/o Sh. Bal Krishen Sharma against the approval of building site plan, duly certified;
- iv. Information about present status of the Plot No-442-A (above) in respect of Civil construction works raised on the above plot. And information if the civil construction works are in accordance to the site plan approved by the Jammu Municipal Corporation, Jammu. Provide certificate thereof, certifying that construction raised on plot No-442-A (above) are in accordance with the building site plan approved by the Municipal Corporation, Jammu;
- v. Information if no building site plan is approved and issued for plot No-442-A, in favour of Sh. Sanjay Kumar Sharma S/o Sh. Bal Krishen Sharma. Information be provided under which rule and norms of Jammu Municipal Corporation, Jammu Sh. Sanjay Kumar Sharma S/o Sh. Bal Krishen Sharma is raising civil construction works on plot No-442-A;
- vi. Information about report of the Khilafwarzi Officer of the jurisdiction submitted in respect of Plot No-442-A (above) under COBO Act, provide the copy of the same;
- vii. Information action taken by the Khilaf Warzi Officer of the jurisdiction taken against the owner of Plot No-442-A, Sh. Sanjay Kumar Sharma (above) for

raising civil construction works without prior permission and approval of building site plan, and for defying the norms of JMC, Jammu;

- viii. About action admissible under law governing within the purview of COBO Act against the owner of the Plot No-442-A (above) for overriding the procedure and norms of COBO Act. Information about any decision taken by the Chief Khilaf Warzi Officer, JMC for demolishing of illegal and unlawful construction/raising of building on plot No-442-A (above), if so provide information thereof.

The PIO vide his reply dated 17-11-2017 furnished the reply to the applicant with regard to Enforcement Section of the JMC. Vide communication dated 20-11-2017, the Divisional Town Planner (DTP) furnished the information to the applicant with respect to Building Section. Not satisfied with the information so provided, the applicant filed 1st appeal with First Appellate Authority (FAA)/Municipal Commissioner, JMC on 07-12-2017, which was disposed of by the FAA on 03-02-2018 with a direction to the PIO/DTP, JMC and PIO/Chief Enforcement Officer, JMC to again provide the available information to the applicant within 07 days. Thereafter, the applicant filed 2nd appeal before the State Information Commission on 16-02-2018, on the grounds that the PIO has not provided the information sought by the applicant and the information provided by him was unwanted and not relevant.

Proceeding/Decision:

The appeal came up for hearing before the State Information Commission (SIC) on 06-04-2018. The respondents submitted during the hearing that the information sought by the appellant was provided to him on 17-11-2017 and 20-11-2017. The respondents also submitted that additional information was also provided to

the appellant on 30-01-2018. In the information so provided by the PIO, the appellant has been informed that no building permission has been granted in favour of Sh. Sanjay Kumar Sharma with regard to construction on plot No-442-A Gandhi Nagar. The appellant has also been informed that as soon as the respondents came to know about illegal construction being undertaken on the said plot, action was taken and the construction so raised illegally was demolished by the Enforcement Wing of JMC. The respondents also submitted that after such demolition, no further construction work was going on at the said site. The appellant however, contested the claim of the respondents and submitted that the part of construction raised by Sh. Sanjay Kumar unauthorizedly still exists on the spot and that no demolition has been done by the respondents with respect to said illegal and unauthorized construction. After hearing the parties, the appeal was adjourned and the PIO was directed by the SIC to file an affidavit before the SIC to the effect that action as claimed by him has been taken on the complaint filed by the appellant and that the illegal construction on plot No-442-A has been demolished.

The appeal again came for hearing before the SIC on 16-04-2018. The PIO submitted an affidavit whereunder Mr. Kamni Kumar, Enforcement Officer, JMC has deposed that immediately after receipt of the complaint from the appellant against the construction started by Mr. Sanjay Sharma at plot No-442-A Gandhi Nagar, action was taken and unauthorized construction of a room and mounthy which was being raised on first floor was got stopped and demolished on spot. The deponent further states that no work was going on when he was transferred on 15-03-2018 from Gandhi Nagar.

The appellant submitted that the PIO has furnished a wrong affidavit and therefore, desired to have a copy of the affidavit so that he can pursue the matter further before the appropriate forum.

Heard the parties at length and perused the records submitted by the PIO and also the affidavit submitted by the PIO with regard to demolition of the unauthorized construction raised on plot No-442-A Gandhi Nagar. Though the appellant contested the correctness of the statement made by the PIO through the affidavit with respect to demolition of the unauthorized construction, the SIC has no means to verify the facts. The demolition or otherwise of the illegal structures is a matter of fact. It is for this reason that the PIO was directed by the SIC to submit an affidavit before the SIC. The affidavit has been submitted whereunder the Enforcement Officer, JMC has deposed that action has been taken and the illegal construction on plot No-442-A has been demolished. There is no reason for the SIC not to believe the statement made on oath by the Enforcement Officer, JMC. The appellant wanted a copy of the affidavit so that he can take further course of action and approach the appropriate authority. The same was accordingly provided to the appellant during the hearing. In case the Enforcement Officer has furnished a wrong affidavit, he can be proceeded against under law. The appellant is free to seek legal remedy available under law for furnishing a wrong affidavit, if he is convinced that it is wrong and if he is able to prove so. The rest of the information has already been provided to the appellant. The appeal is accordingly disposed of, as nothing further survives for adjudication by the Commission in the appeal.

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(Mohammad Ashraf Mir),
State Information Commissioner,
J&K State Information Commission.
/imi/

No. SIC/J/A/240/2018

Dated: / /2018.

Copy to the:

- 1 First Appellate Authority (FAA) Commissioner, Jammu Municipal Corporation Jammu for information.
- 2 Public Information Officer (PIO), Enforcement Officer, Jammu Municipal Corporation Jammu for information.
- 3 Public Information Officer (PIO), Senior Town Planner, Jammu Municipal Corporation Jammu for information.
- 4 PS to SIC for information of HSIC.
- 5 Sh. Jitinder Sharma, S/o Sh. Bal Krishen Sharma, R/o H.No-42, Mast Garh, Peerkho Road, Jammu.
- 6 Guard file.

(Sheikh Fayaz Ahamd)

Registrar,
J&K State Information Commission.