



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/25/2018
Decision No. SIC/K/SA/76/2018/ **52**

Final Order

Appellant : Haji Jan Mohammad Koul
Respondents : FAA/PIO Srinagar Municipal Corporation
Date of Registration : 07.03.2018
Date of Decision : 04.07.2018

The brief facts of this 2nd appeal are that the appellant Haji Jan Mohammad Koul filed an RTI application on 20.11.2017 with the PIO of the SMC seeking the following information about the commercial building situated at Karan Nagar, Ward 22, Srinagar housing various commercial units including Ignites Minds, S Mart, J K Photostat, Car Sport, Masroor and Masroo, Nazir Car etc:-

1. *Land Title, along with the full details of the land under the buildings*
2. *Copy of building permission, if more than one permission has been granted, all the permissions may be provided*
3. *Any notice of violation issued by the SMC with full details of all the correspondence and the present status of the case, if any.*

The appellant also sought the following information:

4. *Land title of the adjacent building housing Dr. Nazir's Testing Lab*
5. *Building permission of Dr. Nazir's building with all allied papers.*

Subsequently, the appellant filed the First Appeal with the FAA of SMC on 28.12.2017 stating therein that the PIO has not furnished the requisite information within the stipulated time. Following no response from the FAA/Commissioner, SMC, he filed the 2nd appeal before the State Information Commission (SIC) on 29.01.2018 which was finally admitted on 07.03.2018 after making the appellant to remove defects/deficiencies.

In the 2nd appeal filed before the SIC under Section-16(4) of the J&K RTI Act, 2009, the appellant contended that the FAA did not dispose of his 1st appeal, leaving the appellant with no other

option, but to file the 2nd appeal before the Hon'ble Information Commission.

Proceedings before the Commission:

This 2nd appeal came up for hearing before the SIC on 10.04.2018. The PIO and the FAA were absent despite notice having been issued on 28.03.2018. The appellant was present. The appellant submitted that the SMC is most non-cooperative as far as the RTI Act is concerned, and that officials generally refuse to accept the RTI application unless these are marked by the Sr. officials of the SMC. The appellant also stated that he had filed the RTI application for public purpose as the area of Gole Market, Karan Nagar was being fast transformed into a commercial area notwithstanding the fact that majority of the existing buildings are still of residential nature. He also stated that the little information provided so far is misleading and not in terms of the RTI application.

From the perusal of papers on file, the latest reply from PIO/Jt. Commissioner (Planning), SMC dated 22.03.2018 has enclosed two building permissions (para 2 and 5 of the RTI

application) and informed of non-availability of the rest of information requisitioned at paras 1, 3 and 4.

The hearing in the 2nd appeal was adjourned with directions to the FAA and the PIO to explain their absence from the proceedings of the Commission on that day and also submit a para wise counter statement to the 2nd appeal well before the next date of hearing. They were also directed to send a copy of the said counter statement to the appellant through registered post to enable him to file rejoinder, if any, well before the date of next hearing.

The 2nd appeal again came up for hearing on 21.05.2018. Sh. R.K. Tutoo, PIO/Jt. Commissioner (Planning), SMC Srinagar and the appellant along with his representative namely Sh. Abdul Majid Gagroo attended the hearing. The PIO stated that the information sought through RTI application dated 20.11.2017 has been provided in the month of March, 2018 but it was contradicted in the last hearing by the appellant who submitted that the information has not been provided to him. Since the then PIO was not present to confirm what information has been provided and the new PIO has taken over the charge on 18.04.2018, accordingly the new PIO

Sh. R.K. Tutoo, Joint Commissioner (planning), SMC, Srinagar was directed to implement interim orders of the Commission dated 10.04.2018 and file written compliance before the Commission. The PIO was also directed to file para wise counter statement to the 2nd appeal within 15 days from the date of receipt of order with copy to the appellant to enable him to file rejoinder, if any, before the next date of hearing. The hearing in the 2nd appeal was accordingly adjourned.

The 2nd appeal again came up for hearing before the Commission on 27.06.2018. The FAA/Commissioner, SMC Sh. Riyaz Ahmad and PIO/Sh. R.K. Tutoo, Joint Commissioner (Planning), SMC, Srinagar attended the hearing. Appellant did not attend.

On the last date of hearing viz. 21.05.2018, the PIO was directed to implement the interim order of this Commission dated 10.04.2018 and file written compliance thereof. The PIO was also directed to file para wise counter statement to this 2nd appeal within 15 days, but the PIO failed to file the para wise reply even until the hearing of 27.06.2018. FAA/Commissioner, SMC and PIO

sought short adjournment to file the counter statement. As the instant appeal has to be disposed of up to 05-07-2018 in view of the time prescribed in the J&K RTI Act, 2009, as such, the registry was directed to list this case on 04-07-2018. FAA and PIO present were intimated about the said date. Accordingly, the hearing in the 2nd appeal was adjourned.

The 2nd appeal again came up for hearing today on 04.07.2018. Mr. Muzaffar Kirmani, Standing counsel of SMC Srinagar, Mr. R.K. Totoo, PIO/Jt. Commissioner (Planning), SMC, Srinagar, Appellant, Mr. John Mohammad Koul and representative of appellant Mr. Ab. Majid attended the hearing. During the proceedings, the PIO/Jt. Commissioner (Planning), SMC, Srinagar submitted a detailed para wise counter statement dated 03.07.2018, where under the PIO has replied para wise queries of the RTI application of the appellant, which were discussed threadbare with the parties during the course of proceedings. The PIO vehemently denied to have withheld any information or refusing any information to the information seeker intentionally or deliberately on the part of SMC.

After hearing the parties and perusing the records, the commission directs as under:

- (a) A copy of the post flood restoration permission granted in favour of Mtr. Jana Begum W/o Gh. Mohammad Haroon of Karan Nagar Srinagar be provided to the appellant;***
- (b) The FAA/Commissioner, Srinagar Municipal shall get a thorough enquiry conducted by a senior level officer of the of the SMC as to how a residential building in question, housing Commercial establishments, has come up, if the permission for the said building was granted in 2010 for a two story residential house. The outcome of the enquiry be intimated to the appellant and shared with the commission within a period of one month from the date of receipt of this order;***
- (c) With respect to information sought at Point No.4 (pertaining to building permission granted***

in respect of the structure/building housing Dr. Nazir's Testing Lab), the PIO shall provide a copy of the building permission granted to the proprietor of the said building within 20 days from the date of receipt of this order under an intimation to the Commission;

(d) In case the information as directed here-in-above at (a), (b) and (c) is not furnished to the appellant within the time specified therein, the appellant shall be at liberty to file a complaint for non-compliance before the Commission.

With the above directions, the 2nd appeal filed before the Commission is disposed of.

**Sd/-
(Mohammad Ashraf Mir)
State Information Commissioner**

(Ahmad Sajad, PA)

Copy to the:

1. FAA/Commissioner, SMC, Srinagar
2. PIO/Jt. Commissioner (Planning) SMC, Srinagar
3. PIO/Secretary, SMC Srinagar

4. Appellant—Haji John Mohammad Koul, President, Resident
Welfae Society karan Nagar, Gole Market, Srinagar

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