



Jammu and Kashmir State Information Commission

شنیشن کمیٹی انفارمیری اسٹیٹسٹ کشمیری 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/109/2017

Decision No. SIC/J/A/109/2017/32

Final Order

(Second Appeal)

Appellant : Sh. Anwar Hussain

Respondents : First Appellate Authority (FAA)/
Additional District Development Commissioner,
(ADDC) Jammu and Public Information Officer
(PIO)/Tehsildar Jammu.

Date of Registration : 11.04.2017

Date of Decision : 03.08.2017

Brief Facts:

The appellant Sh. Anwar Hussain, S/o. Sh. Rashid Ali, R/o. Duwada, Tehsil and District Jammu while exercising his right to information filed RTI application with PIO/Tehsildar Jammu (Khas) on 13.01.2016 (received in the PIOs office on 18.02.2016) seeking information on 07 points as under:

- (i) Information about present status of land comprising Khasra Nos. 52, 53 and 59/41 Khewat no. 17/86 Khata No. 34/33 situated in Village Duwada, Tehsil Jammu (previous Tehsil Samba) District Jammu.

- (ii) Information about total area of land under Khasra Nos. 52, 53 and 59/41 (above) of village Duwada, Tehsil Jammu, giving details against each Khasra No. separately.
And information about area of land sold as per revenue records against each Khasra Nos. above with details of Fard Akas Tatima issued.
- (iii) Provide true copy of the 'Naqal Hiqiyat' of land comprising Khasra nos. 52, 53 and 59/41 of village Duwada, Tehsil Jammu with effect from 1960 till date and Khasra Girdwari of the land w.e.f. 1960 till date.
And copy of four yearly Jammabandi with effect from 1960 till date.
- (iv) Provide the information about share of land which fell in the name of Sain, Mohd. Yaqub and Abdul Gani all sons of Bhag Ali and Khurshid Bibi Daughter of Noor Ahmed (S/o. Bhag Ali) out of Kh. Nos. 52, 53 and 59/41 situated in village Duwada, Tehsil Jammu (previous Tehsil Samba) District Jammu. Giving details separately in each Khasra Numbers above.
- (v) Information about if any of the co-sharers namely Mohd. Yaqub, Sain, Abdul Gani sons of Bhag Ali has left Pakistan during partition as per records of the Revenue. Provide complete information thereof about if any of the them is termed as 'Muhajreen' on revenue records.
- (vi) Information about type of land which falls under Khasra Nos. 52, 53 and 59/41 situated in village Duwada, Tehsil Jammu. And information about area of land out of above each Khasra Numbers which is under cultivation, and area of land which falls/termed as Khad, Banjar Kadeem, and Banjar Kadeen Adhak giving full details about present status of the instant land falling under Khasra Nos. 52, 53 and 59/41 situated in village Duwada, Tehsil, Jammu (previous Tehsil Samba) District Jammu.
- (vii) Provide the details of legal heirs of Mohd. Yaqub, Sain and Abdul Gani all sons of Bhag Ali who have been entered in revenue records as co-sharers of land falling under Kh. Nos 52, 53 and 59/41 situated in village Duwada, Tehsil Jammu

(previous Samba) District Jammu under Chhajra Nasib maintained in Revenue records duly attested. And detail of land sold by the respective co-sharers in heritage against each Khasra Number which has fell in heritage of the heirs.

Aggrieved by the disposal of the PIO, he filed First Appeal with the FAA/O/o Deputy Commissioner, Jammu which was finally disposed of on 22.03.2017. In the meantime the appellant approached the State Information Commission by filing the 2nd appeal against the above mentioned respondents which was finally admitted in the Commission on 11.04.2017.

Proceedings:

This second appeal was first heard on 23.05.2017 and after perusal of the basic RTI application and revenue extracts brought to the hearing by the PIO, it was felt that proceedings under section 16 (5) of the J&K RTI Act, 2009 were necessary as the information sought by the RTI applicant/now appellant related to land belonging to or under the occupation of many other individuals, shareholders, sarkar and Forest Department etc. Accordingly, the PIO was directed through the order issued on 23.05.2017 to provide the list of all the third parties to the Registry to be called to the next date of hearing.

The appeal was again heard at Jammu on 13.06.2017. None of the third parties attended except one Mr. Manish Suri whose family members are recorded against Khasra No. 51. The appellant stated that he was

now not interested in the information pertaining to Khasra No. 51. The PIO was then directed to provide to the appellant information/copies of revenue documents of land in which the appellant or his father are recorded as owners/shareholders. The hearing was adjourned with directions to fix the next date of hearing under intimation to the third parties also.

The appeal came up for hearing again on 11.07.2017 at Srinagar. The appellant and his authorized person namely Mr. Mohd. Ayub Choudhary were heard through Video Conferencing from Jammu. However, on this day a doubt arose about the real identity of the appellant as to whether he is Anwar Hussain, S/o. Rashid Ali, R/o. Village Duwada, Tehsil and District Jammu or Anwar Hussain, S/o. Late Noor Mohd, R/o. Chak Rakwala, P/o. Nagrota, District Jammu. This was due to particulars and address given as Anwar Hussain, S/o. Late Noor Mohd, R/o. Chak Rakwala, P/o. Nagrota, District Jammu on the First Appeal disposed of by Deputy Commissioner, Jammu on 04.07.2017 in respect of his another RTI application reportedly requesting for the same information as has been asked for by him in the RTI application which has now landed in the second appeal before the SIC. A copy of the FAA/DC, Jammu's order was faxed to the SIC from the Jammu office on the same day i.e. 11.07.2017 just before the hearing. Accordingly, vide State Information Commission (SIC) order dated: 11.07.2017 the FAA/ADDC, Jammu and PIO/Tehsildar, Jammu Khas were asked to conduct a probe to clarify the doubt.

The appeal came up for the last hearing on 03.08.2017 at Jammu. The appellant and his authorized representative did not attend. The respondents were represented by PIO himself i.e. Tehsildar, Jammu, Law Officer, O/o. Deputy Commissioner, Jammu and another official from Tehsil office, Jammu. None of the third parties attended the hearing. The Law officer produced a copy of the letter from FAA/ADDC, Jammu dated: 26.07.2017 wherein she has stated that parentage and address in the first appeal disposed of by the Deputy Commissioner, Jammu on 04.07.2017 in the second RTI application filed by the same person namely Sh. Anwar Hussain were inadvertently given and that it was a typographical mistake and that Deputy Commissioner, Jammu/FAA has also issued a corrigendum to this effect vide his No. DCJ/FAA/RTI/2017-18/129-30 dated: 22.07.2017.

Be that as it may, for the disposal of this present 2nd appeal two issues need consideration:

- (i) First, to establish the correct identity of the appellant and to clarify the doubt about how another set of particulars with different parentage/address have cropped up.
- (ii) The second issue pertains to information sought by the RTI applicant from Tehsildar, Jammu/PIO, the subject matter in this 2nd appeal.

In respect of (i) above, clarification given by the ADDC, Jammu/FAA does not fully clear the doubt as her own disposal of First Appeal dated: 22.03.2017 also shows these particulars i.e. Anwar Hussain, S/o. Late Noor Mohd, R/o. Chak Rakwalan, P/o. Nagrota, District Jammu. Therefore, the doubt about the RTI applicant's real identity and address is still not

settled in the light of examination of papers on file. It is, therefore, essential for the Deputy Commissioner, Jammu to enquire further into the matter and send a report to the SIC.

In respect of (ii) above, as already directed vide SIC order dated: 13.06.2017, Tehsildar, Jammu/PIO has reportedly furnished the requisite information to the applicant for the land belonging to him and his father as owners/share holders.

In respect of land belonging to other persons, the information sought through RTI may be provided after reference to section 11. However, since in this 2nd appeal, the third parties were given an opportunity of being heard in terms of section 16(5) which they did not avail by remaining absent, the PIO may now provide the requisite information as asked for by the appellant/RTI applicant from the available revenue record subject to the condition that it is proved on enquiry by DC (Jammu) that the same applicant has not approached the PIO with different parentage and address for obtaining same information in the garb of another applicant. Inspection of the relevant record may also be offered under the provisions of the Act in case the information to be provided is voluminous but subject to the same condition of verification of identity of the appellant/applicant.

Regarding repeated RTI applications, the Central Information Commission on 25.06.2014 has observed in the case of Shri Ramesh Chand Jain Vs. Delhi Transport Corporation, GNCTD, Delhi as under:-

- (i) *“The Commission noticed that several applicants seek some information from one wing of the public authority, and based*

on the responses file a bunch of RTI questions from the same or other wings of same public authority, or from other authority. This will have a continuous harassing effect on the public authority. As the PIOs go on answering, more and more questions are generated out of the same and in the same proportion the number of repeated first appeals and second appeals will be growing."

- (ii) "Even a single repetition of RTI application would demand the valuable time of the public authority, first appellate authority and if it also reaches second appeal, that of the Commission, which time could have been spent to hear another appeal or answer another application or perform other public duty."*
- (iii) "Every repetition of RTI application which was earlier responded will be an obstruction to flow of information and defeats the purpose of the RTI Act."*

The CIC has vide its decision No. **CIC/AD/A/2013/001326-SA** dated: **25.06.2014** accordingly decided as under:-

- (i) No scope of repeating under RTI Act.*
- (ii) Citizen has no Right to Repeat.*
- (iii) Repetition shall be ground of refusal.*
- (iv) Appeals can be rejected.*

The above observations and decision of the CIC has also been circulated by the Central Vigilance Commission through Circular No. 03/03/2017 and vide No. CVC/RTI/MISC/16/006 dated: 10.03.2017. Mention of this decision of the CIC has been made because the appellant/applicant seems to have already filed a repeat RTI application asking for the same information.

Lastly, it is important to highlight here the importance of section 4 of the J&K RTI Act, 2009 regarding suo-moto disclosure. In case of revenue department and the revenue records, implementation of the provisions of section 4 is necessary as then the relevant record would be available for public inspection on the websites. Till the time the revenue record is not computerized and uploaded on the websites, the PIOs must consider, on receipt of RTI applications, to allow inspection of available records within the provisions of the J&K RTI Act, 2009 and the J&K RTI Rules, 2012.

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) IAS Retd.
Chief Information Commissioner
J&K State Information Commission

No: SIC/J/A/109/2017

Dated: .08.2017

Copy to:

1. Registrar, J&KSIC for information and necessary action.
2. Deputy Commissioner, Jammu for information and necessary action.
3. FAA/Additional District Development Commissioner (ADDC), Jammu for information and necessary action.
4. PIO/Tehsildar, Jammu (Khas) for information and necessary action.
5. Private Secretary to HCIC for information of the HCIC.
6. Appellant/Sh. Anwar Hussain, S/o. Sh. Rashid Ali, R/o. Village Duwada, Tehsil and District Jammu.
7. Office file.

(Rita Koul)
Deputy Registrar
J&K State Information Commission