



Jammu and Kashmir State information Commission
(Constituted under The Right to Information Act, 2009)
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www.jksic.nic.in

File No: SIC/K/SA/43/2013
Decision No: SIC/K/SA/43//2013/08

Title: Sh. Gh. Qadir Wani, v/s **1. FAA/DC Srinagar..**
S/o Ab. Gaffar Wani **2. PIO/ADC**
R/o Gangbugh, Srinagar **Srinagar**
,(Appellant) **(Respondents)**

Present: 1.Sh. Sh. G.M. Dar, Addl. DC Srinagar.
2. Sh. Gh. Qadir Wani, appellant

Srinagar
16.01.2014

This is a Second Appeal filed before the Commission on 27.11.2013 by Shri Gh. Qadir Wani s/o Ab. Gaffar Wani r/o Gangbugh, Srinagar against Deputy Commissioner Srinagar. The appellant has stated that he filed an RTI application dated 30.07.2013 before ADC Srinagar and since no response was received from PIO he filed First Appeal before

FAA/Deputy Commissioner Srinagar on 11.09.2013. The appellant has further stated that consequently ACR vide letter dated 11.10.2013 directed Tehsildar South Srinagar to intimate whether information sought by the applicant has been provided to him but till date information has not been provided to him. The appellant has requested the Commission for appropriate action in the matter under law by providing him the requisite information as sought and also impose penalty against the defaulting officers/officials for their deliberate delay and default in the matter, as per provisions of the RTI Act.

As per records, the appellant has filed an RTI application before PIO/Additional Deputy Commissioner, Srinagar on 30.07.2013 seeking following information: -

- 1. "Copy of status report of enquiry ordered by the Divisional Commissioner, Kashmir vide order issued under Endtt. No. Divcom/Reader/1831-35 dated 06.02.2013.**
- 2. Copy of status report of the presentation made under Section 32 to the Deputy Commissioner, Srinagar dated 09.03.2013 by the resident of revenue village**

Ganghbugh, Srinagar received in the office of Deputy Commissioner, Srinagar vide Receipt No. 17582 dated 26.03.2013 regarding rectification of the wrong entries made in the New Settlement Records of revenue village Ganghbugh Pathwar Halqua, Barzalla, Srinagar in Khewat Nos: 1,2 &3 (Khasra Nos: 630/331, 630/332, 685/1 etc. etc. (copy of representation enclosed).

- 3. Copy of status report of representation made to the Divisional Commissioner, Kashmir by the resident of revenue village Ganghbugh, Srinagar for cancellation of illegal and fraud mutation No. 894 dated 06.06.2010 and fraud and tampered mutation No. 205/1 attested by Naib Tehsildar, Chattabal and Tehsildar Srinagar respectively contrary to the provisions of the Agrarian Reforms Act, 1975”.**

During proceedings in the Commission on 21.12.2013 Tehsildar reiterated that information in respect to query (1) to (3) is not available in his office. ADC (designated PIO Office of the Deputy Commissioner Srinagar) requested to grant 10 days time to examine records and file his response.

Subsequently ADC Srinagar vide letter dated 04.01.2013 has responded to queries of the RTI application as under: -

1. **“In response to Sr. No. 1, the matter was adjudicated by Divisional Commissioner Kashmir and orders for the constitution of HLC under the chairmanship of Deputy Commissioner Srinagar with other members viz. Director Land Records Kashmir, Custodian Evacuee Property Kashmir, Tehsildar South Srinagar was constituted and asked to submit factual report within four weeks before the court, status can be had from office of Divisional Commissioner Kashmir.**
2. **In response to Sr. No. 2, as per the records the applicant has not filed suit under section 32 as required under law but has made simple application which has been forwarded to the Tehsildar South Srinagar vide No. 23/DCS/SQ/Misc dated 04.09.2013 for verification and report, which is awaited matter is under process.**
3. **In response to Sr. No. 3, the information sought does not pertain to this office, besides the matter is of quasi judicial matter. The legal course of action is to be followed”.**

Copy of this response is given to the information seeker during proceedings.

Upon perusal of the response of the PIO, the Commission feels that PIO/ADC Srinagar has given status report sought by the appellant to the extent of information available in his office. In so far as the information pertaining to the Divisional Commissioner’s office and other legal procedures as mentioned in the response of PIO,

Information seeker may take up the issues with concerned quarters accordingly.

Apparently there is delay in responding to the RTI application both at the level of PIO Office of the Deputy Commissioner Srinagar (ADC) and Tehsildar South Srinagar. Since copy of some communications referred to in the letter of ACR Srinagar addressed to Tehsildar South is not available on records, ADC Srinagar/Tehsildar South Srinagar are directed to explain delay in light of above references within two weeks from issue of this order.

The Commission has noted that FAA/Deputy Commissioner Srinagar has not adjudicated the appeal as required under section 16 of the Act. As per provisions of the Act, FAA is mandated under the Act to decide appeal within prescribed period not exceeding 45 days. Also, FAA cannot delegate his authority to someone else, but has to decide appeal under his seal and signature. Dy. Commissioner Srinagar is advised to ensure that in future

appeals filed before him under RTI Act are disposed strictly within provisions of Section 16 of the Act under his seal and signature.

Sd/-

**(Nazir Ahmed)
State Information Commissioner**

Copy to the:-

- 1. . Deputy Commissioner Srinagar(FAA).**
- 2. Addl. Deputy Commissioner(Revenue) (PIO).**
- 3. Gh. Qadir Wani S/o Ab. Gaffar Wani R/o Gangbugh
Srinagar P/O Central Market, Karan Nagar, Srinagar.**

**(M.S. Bhat)
Deputy Registrar,
J&K State Information Commission**