



Jammu and Kashmir State information Commission
(Constituted under The Right to Information Act, 2009)
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Old Assembly Complex, Srinagar. 0194-2484269, 2484262
www.jksic.nic.in

File No: SIC-K/SA/23/2013

Decision No: File No: SIC-K/SA/23/2013/63

Title: Sh. Mohammad Sharief, v/s 1. FAA/Administrator MC Pampore
S/o Gh. Mohammad Mir 2. PIO/Executive Officer MC Pampore
(Appellant) **(Respondents)**

Present: 1. Shri Mushtaq Ahmad, Administrator MC Pampore
2. Shri Mohd. Ismayeel, Executive Officer MC Pampore.
3. Shri Mohammad Sharief Mir, Appellant.

Srinagar
17.07.2013

This is a Second Appeal filed by Shri Mohammad Sharief Mir s/o Gh. Mohammad Mir r/o Kadlabal Pampore on 27.06.2013 against PIO/Executive Officer Municipal Committee Pampore and FAA/Administrator Municipal Committee Pampore stating that he submitted an RTI application before Executive Officer Municipal Committee Pampore on 07.02.2013 which was responded to by the PIO under letter dated 09.03.2013 but the order copy titled Saja v/s Nisar Ahmad wherein Municipal Committee were given demolition orders have not been provided. The appellant has further submitted that preferred first appeal preferred first appeal before FAA on 27.03.2013 and the FAA dismissed the appeal on 24.04.2013. The appellant has accordingly requested the

Commission to intervene and information as sought by him be provided to him besides has requested compensation of loss he has suffered because of inaction of public authority.

Records enclosed with the appeal reveal that the appellant filed an RTI application dated 07.02.2013 before PIO/Executive Officer Municipal Committee Pampore giving reference of Commission's order 37-ICK of 2011 dated 20.01.2011 has sought mainly following information: -

".....copy of the order pending disposal in the case titled Mst. Saja v/s Nissar Ahmad Mir and others before Hon'ble sub-judge Pulwama as admitted by your representative which has restrained you from demolition of illegal construction be provided to me under RTI Act 2009. Also it may be informed under RTI Act which of the order issued by the Commission on 30.12.2011 or order issued by Hon'ble Principal & Session Judge Pulwama on 30.01.2013 is correct one".

This RTI application has been responded to by the PIO under letter dated 09.03.2013 by providing copy of letter dated MCP/12-13/1334 dated 09.03.2013 wherein appellant has been informed as under: -

'.....The reference regarding pendency of case before Hon'ble District Court Pulwama has been made in accordance with the order issued by the Tehsildar Pampore (copy enclosed). So far the pendency of the matter before Hon'ble Sub-Judge Pulwama is concerned, the documents regarding the matter forwarded by the Revenue Department alongwith all the relevant correspondences between this office and Revenue Department stands already provided to you vide this office No's MCP/11-12/559-61 dated 27.09.2011, MCP/11-12/617 dated 20.10.2011, MCP/11-12/776 dated 02.12.2011".

Subsequently the appellant has filed first appeal with Administrator Municipal Committee Pampore on 27.03.2013. This has been adjudicated by the FAA under order No. MCP/13-14/103 dated 24.04.2013 by passing order as under: -

".....perusal of records available on file reveals that the application filed by you has been responded by the PIO within stipulated time vide No. MCP/12-13/1334 dated 09.03.2013 and MCP/12-13/1335 dated 09.03.2013 as per records.

Therefore it is concluded that the PIO has not withheld any information/document available with him. The appeal therefore does not merit any consideration is is accordingly rejected”.

Upon perusal of order of FAA it is apparent that he has not passed a reasoned order while rejecting the appeal. Besides, the appellant has not been given an opportunity of being heard to the appellant in person which is the basic requirement of natural justice.

The Commission therefore feels that FAA has not passed a reasoned order and also denied opportunity of being heard to the appellant.

In view of above, second appeal filed before the Commission is remitted back to the FAA with directions to adjudicate the First appeal afresh by passing a speaking and reasoned order after giving an opportunity of being heard to the appellant, within two weeks from issue of this order.

The appeal is disposed of accordingly.

Pronounced in open court.

Sd/-
(Nazir Ahmed)
State Information Commissioner

Copy to the: -

1. Administrator Municipal Committee Pampore.
2. Executive Officer Municipal Committee Pampore.
3. Shri Mohammad Sharief Mir s/o Gh. Mohammad Mir r/o Kadlabal Pampore.

(Mohammad Sayed Shah)
Registrar,
J&K State Information Commission