



Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

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File No: SIC/CO/SA/77/2012

Decision No: SIC/CO/SA/77/2012/435

Title:- Farooq Ahmed Mir S/o Gh. Mohd. Mir R/o Kadalbal
Pampore.

V/s

Financial Commissioner Revenue, J&K Srinagar.

Srinagar

12.04.2013

In this case an RTI application was filed by Shri Farooq Ahmed Mir S/o Shri Gh. Mohd. Mir R/o Kadalbal, Pampore on 17.9.2011 before Financial Commissioner, Revenue J&K seeking a copy of order dated: 14.06.1998 which was under revision petition before Financial Commissioner, Revenue. Later on vide his another application to Financial Commissioner, Revenue dated: 21.11.2011, the information seeker informed the Financial Commissioner Revenue that he was provided a copy by the PIO which pertained to some other mutation and he again insisted for providing copy of mutation dated: 14.6.1998 of Kadalbal Pampore, District Pulwama which was under revision. And vide order dated: 24.10.2011 issued by Administrative Officer in the office of Financial Commissioner Revenue, he was provided information alongwith Annexure "D" which is the copy of mutation. Though, this copy of mutation is a photocopy and is hardly legible, the original record was perused today the Commission which was produced by the office of Director Land Records which shows that this mutation No. 668 was attested on 14.6.1958, though in the RTI application, the Appellant has clearly mentioned mutation dated: 14.6.1998. Thus, it is established that the information which was given to him was not correct. The appellant later on filed a second appeal before this Commission on 27.4.2012. The second appeal was disposed of by this Commission vide Decision No: SIC/CO/SA/77/2012 dated:

1.10.2012 wherein it was confirmed that the PIO had not given exact and specific information which the information seeker had sought. The Commission had restored back the appeal to First Appellate Authority as it was found that First Appellate Authority had not passed the order. The First Appellate Authority was issued direction to adjudicate various issues raised in the appeal after giving due opportunity of being heard to the appellant. The First Appellate Authority vide his order dated: 15.10.2012 has directed the PIO to issue directions to the Tehsildar concerned for providing a copy of mutation dated: 14.6.1998. Though in the same order First Appellate Authority has admitted that revision petition filed before the Financial Commissioner Revenue actually pertains to same mutation number but is attested on 14.6.1958. As per the version of appellant, the directions of First Appellate authority were not complied by the PIO and the appellant accordingly filed again a second appeal before this Commission on 7.1.2013. The appellant has again reiterated that he wanted information of mutation No: 668 dated: 14.6.1998 which is not provided to him. The Commission heard the matter at Jammu and today at Srinagar. The PIO Shri Nasir Ahmed Wani attended on 28.3.2013 at Jammu and took the plea that there was a typographical mistake in the mutation attestation which is to be read as 1958 and not 1998. The PIO also referred to his order dated: 7.1.2013 under No: 255/56/FC/appellant/Misc/2013 vide which he has directed the Tehsildar Pampore to provide the information to the appellant. The Tehsildar Pampore Shri Mushtaq Ahmed who attended this Commission today on 12.4.2013 at Srinagar stated that he was not designated PIO but he complied with the requirement of the PIO and intimated to him on 28.1.2013. The records prior to settlement done in 2005-2006 stand deposited in the Central Record Room, Srinagar under the control of Director Land Records, Kashmir. He has further informed the PIO that land under survey numbers 705 and 707 in Estate Kadalbal was mutated in favour of Mehda Mir, Gul Mir, Ahad Mir, Yousuf Mir and Mst. Saja by virtue of mutation number 668 dated: 14.6.1958 which was later on challenged before the Financial Commissioner Revenue Jammu and Kashmir. It was further stated in this report that because of the oversight mutation/attestation is wrongly shown as 1998 instead of 1958. Accordingly, after receiving the information from Tehsildar, the PIO had to pass an order and provide this information to the information seeker i.e appellant. The Tehsildar Pampore is not the PIO. He is just an Assistant in terms of Section 5(5) of the State RTI Act. The assistance has been provided by the said Tehsildar. The PIO should have now complied with Section 7 of the RTI Act and passed the order informing the appellant and providing him information. As there is no order by the PIO, therefore, he has defaulted in terms of Section 7 read with Section 17 of the State RTI Act and Mr. Nasir Ahmed PIO is

accordingly directed to explain why penalty under Section 17 of the State RTI Act may not be imposed on him for delaying and suppressing the information. His reply, if any, must reach this Commission within 15days from the date of issuance of this order. Penalty is to be calculated from the date when information was to be given and till the date when information was actually given.

The information seeker has rightly contended before this Commission by appearing personally as well as in his written submissions dated: 5.4.2013 wherein he has stated that if the version of PIO as well as the Tehsildar is to be accepted that there has been a clerical mistake with regard to mentioning the exact date of mutation and date of attestation then why Financial Commissioner Revenue is still proceeding with the hearing of the mutation 668 dated: 14.6.1998. He has also produced before this Commission copy of various orders like revision petition wherein the date of mutation is shown as 14.6.1998. He has further alleged that the opposite party is deliberately insisting on attestation date of 14.6.1998 as against actual date of 14.6.1958 and why Revenue authorities are processing with the date of 14.6.1998, why no steps were taken to get the mistake rectified. The appellant's contentions are convincing and the Commission thus observes that if Revenue authorities are not rectifying the mistake then the Commission would construe that the information provided to the appellant is false by relying on original land records produced by Director Land Records who attended this commission alongwith mutation register and his Assistant Mr. Syed Khurshid Ahmed who explained the entries in the said register. The PIO's attention is again invited to provisions of Section 17 which entails imposition of penalty if it is found that information was knowingly given incorrect, incorrect or misleading information or destroyed which was subject matter of the request. PIO should communicate findings given by the Tehsildar Pampore in communication under NO: TP/OQ/2336-37 dated: 28.1.2013. Second appeal is accordingly disposed of subject to the finalization of penalty proceedings

Sd/-

(G.R. Sufi)

J&K State Chief Information Commissioner

Copy to:-

1. Director Land Records, Kashmir
2. Public Information Officer, Financial Commissioner Revenue, J&K

3. Tehsildar Pampore
4. Shri Farooq Ahmed Mir S/o Shri Gh. Mohd. Mir, R/o Kadalbal, Pampore.
5. Guard File.

(Mohammad Syed Shah)
Registrar
J&K State Information Commission