



Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

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File No: SIC/J/A/214/2013

Decision No: SIC/J/A/214/2013/510

Title:- Shri Rashu Kanna

V/s

PIO DC Office Jammu

Jammu

03.10.2013

This is a second appeal filed by Shri Rashu Kanna, a resident of the State before this Commission on 30.9.2013. To adjudicate the appeal, the Registry of the Commission posted the appeal for hearing. S/Shri Sher Singh, Assistant Commissioner (Revenue)-cum-FAA, Shri Sanjay Badyal Tehsildar-cum-PIO and Shri Rashu Kanna attended. Both the parties were heard. Brief facts and grounds of appeal as under:-

The appellant Shri Rashu Kanna, a resident of the State filed an RTI application before the PIO-Tehsilda Territorial on 11.5.2011 Shri Shesh Pal Salgotra. After going through the RTI application, the Commission has found that the information sought was of very high public value which hinges around transparency and accountability which is the aim of the Act to be brought in the working of every public authority. Hence it would be appropriate if the information so sought is reproduced hereunder:-

1. Field Book of Survey No: 355 in Central Record Room shows total land area 155 kanal and 5 marla only and does not correspond to (jamabandi) & Misal Haquiat showing 165 kanal and 5 marla land area of village upper Thather Distt Jammu. Kindly provide the information regarding steps taken by former Deputy Commissioners Jammu/present one in rectification of record i.e 10 kanal and 5 marla sold by land mafias (sic) excess to original land area.
2. Field Book of Survey No: 373 in Central Record Room shows total land area 302 kanal and 18 marla only whereas (jamabandi) show sale of 414 kanal and 8 marla land area of herein above village. Kindly provide the information steps taken by former Deputy Commissioners Jammu/present one in rectification of record i.e excess sale of 112 kanals and 8 marla by sold by land mafias excess to original land area.
3. Steps taken by former Deputy Commissioners Jammu/present one to restore the original plots to number of vendees purchased plots in 1990 and free these plots from the clutches of

land grabbers who are claiming these plots under vicinity of Survey No: 373 whereas said survey No was 355 in early 1990's.

2. The PIO passed the order on the same day not giving any information to the appellant. The Commission has noted with pain and anguish that said PIO Shri Shesh Pal has acted in absolute haste thus demonstrating clearly lack of knowledge of the State RTI Act which is in operation since 2009 in the State. Before promulgation of present Act the present Act had repealed earlier Act of 2004. Thus the concept of RTI is in vogue in the State since 2004. The Commission is also functioning for last more than two years but surprisingly the PIO who is a pivot around which the Act revolves has shown absolute lack of knowledge which amounts to disregard to the Act. It would be further relevant to reproduce the "order" of the PIO which is as under: "Please refer to your application dated: 11.5.2013, the parawise reply is as under:

Query No: 1: Field book of Khasra No: 355 of village Thather is not available in this office. Rest of the information pertains to the Deputy Commissioner office, Jammu.

Query No:2: Field Book of khasra No: 373 of village Thather is not available in this office. Rest of the information pertains to the Deputy Commissioner office Jammu.

Query No: 3: This information pertains to the office of Deputy Commissioner Jammu"

The PIO has not even identified himself. Identification of an officer i.e the public authority is fundamental to the spirit of RTI Act which wants to promote transparency and accountability. Similarly, the PIO has not bothered to inform the appellant about his right of appeal as is provided under Section 7(8) of the Act which enjoins upon the PIO to inform the appellant about the full particulars of the FAA. The PIO has also shown disregard to provisions of Section 5(3) and (4) of the Act which has made it incumbent on him to take the assistance of any other officer in providing complete and truthful information to the information seeker if otherwise not prohibited under the provisions of Section 8 and 9 of the Act. Being aggrieved with the callous approach of the PIO, the appellant preferred first appeal before AC[®]-cum FAA in the office of Deputy Commissioner, Jammu on 10.7.2013. The appeal is purported to have been received on 11.7.2013 and FAA has passed order on 7.8.2013. The Commission has perused this order and found that the FAA has confirmed "on the basis of record" that information was provided to the appellant. In brief the FAA has not found anything wrong in the order of the PIO. The PIO in his order has clearly refused to provide the information on the plea that Field Book of Khasra No: 355 was not available and rest of the information was to be obtained from the DC's office. Similarly, the information with regard to Field Book of Khasra No: 377 has also been denied. Thus in the guise of "record not being available" the information has been denied to the appellant. It was the duty of the FAA to investigate on what circumstances the then PIO Shri Shesh Pal claims nonavailability of record. It was also the duty of the FAA to have told the PIO that for obtaining balance/remaining information Section 5(3) and (4) should have been invoked. The FAA should have asked the PIO why he did not make a serious effort to trace the information and provide the same to the information seeker. Unfortunately nothing has been done by the FAA. As already stated above this information is of utmost importance

and having high degree of public value. Therefore, the Commission directs the FAA to upload the information on the website of DC Jammu with a copy to the appellant and compliance report to the Commission within 5 days after uploading the information. Prima facie then PIO Shri Shesh Pal Salgotra has denied the information without any reasonable cause to the information seeker. Hence he is directed to explain why penalty proceedings under Section 17 of the State RTI Act may not be initiated against him. His reply, if any, must reach this Commission within 15 days from the receipt of this order. The present PIO Shri Badyal is directed to serve a copy of this order to Shri Shesh Pal Salgotra with an intimation to this Commission.

3. It is observed that information seeker is a regular RTI user and he is making multiple applications to the same PIO. He is advised to desist from filing multiple applications. He can seek any information only in one application from the same PIO so that the resources and time of the Government functionary is not put to stress. The appeal is accordingly disposed of subject to the findings given above.

Sd/-
(G.R. Sufi)

J&K State Chief Information Commissioner

Copy to:-

1. Divisional Commissioner Jammu
2. Deputy Commissioner Jammu
3. Secretary to Government, Revenue Department
4. First Appellate Authority, D.C office Jammu
5. Public Information Officer, D.C Office Jammu
6. Shri Shesh Pal Salgotra, Ex-PIO D.C Office Jammu
7. Shri Rashu Kanna, H.No: 579, Subash Nagar, Jammu.
8. Private Secretary to Chief Information Commissioner
9. Guard file

(G.Q. Bhat)
Deputy Registrar
J&K State Information Commission.