

CENTRAL INFORMATION COMMISSION
August Kranti Bhawan, Bhikaji Cama Place,
New Delhi-110066

F. No. CIC/SA/A/2016/001729

Date of Hearing : 24.08.2017
Date of Decision : 24.08.2017
Appellant/Complainant : Kartar Singh
Respondent : PIO /Land & Building
GNCTD
Through:- Ms. Bhawna, Sr.
Accountant
Information Commissioner : **Shri Yashovardhan Azad**

Relevant facts emerging from appeal:

RTI application filed on : 16.02.2016
PIO replied on : 15.03.2016
First Appeal filed on : 11.04.2016
First Appellate Order on : 06.05.2016
2nd Appeal/complaint received on : 27.06.2016

Information sought and background of the case:

Vide RTI application dated 16.02.2016, sought to know the custodian of land of khasra No.47/30 Haibat Pura and possibility of developing a park on this land under 4 points. PIO vide letter dated 15.03.2016 informed the appellant that efforts have been made to trace out the property bearing No.47/30 H.P. to provide the information but this record is not readily available and requested the appellant to provide any related document issued by the department to facilitate to trace out the record. The appellant filed an appeal on 11.04.2016. The FAA vide order dated 06.05.2016 directed the PIO to send a revised point wise reply to the appellant.

Feeling aggrieved, the appellant approached the Commission.

Relevant facts emerging during hearing:

Both parties are present and the appellant states that 17 bigha 3 biswas of Government land which is supposed to be Evacuee property. As per SDM's report 6 bighas of this land already been encroached. The appellant seeks to know who is the owner of this land so that some development action can be

taken for welfare of society by building of schools or even afforestation of the area to make a green cover in the area.

Decision:

After hearing parties and perusal of record, the Commission notes that the appellant has raised a matter of great public interest. He has indicated a patch of land of the size 17 bighas and 3 biswas in the khasra no. 47/30 Haibat pura, which has already been encroached upon to the tune of 6 bighas. According to the report of the Revenue authorities, the land is recorded in the name of Central Govt. Since the land is vacant for last so many years, it is the appellant's plea that this could be diverted for community purpose like afforestation, park or playground. It is in this context that he sought to enquire about the ownership of this land from the E.P. Cell of Land and Bldg Deptt. of the Delhi State Govt.

In response, he was furnished a reply by the PIO stating that record regarding property bearing the khasra no. 47/30 is not traceable. At the first appellate stage, the Learned FAA has merely asked the PIO to send a revised point wise reply within three weeks. However during the hearing before the Commission, the Respondents continue to reiterate their earlier stance that the file is not traceable and had the temerity to even question the appellant's right to seek the information as defined under Section 2(f) of the RTI Act. This callous approach of the PIOs has been the stumbling block in enforcing the RTI regime. Conduct of the PIOs indicate they are only interested in evading their responsibility and pretend to have discharged their responsibility by merely furnishing frivolous replies like reporting that the file is untraceable. In their mechanical and most negative approach of discharging responsibility the PIOs often compromise and completely overlook public good and Government image. Here is a case of a patch of land which is lying empty and already partially encroached upon and vulnerable for further encroachment. All that was required of the PIO, EP Cell was to check from records of E P properties whether the property existed in their records or not, in view of the importance of a public land lying vulnerable to encroachment. Instead the Respondent kept repeating the property file number being untraceable in records.

It is inconceivable that the E.P. Cell has no idea of its own properties which were transferred to it in the year 1989 by the Central Govt. No effort has been demonstrated or the Commission informed about any action taken by the Respondent. It is frightening to see the state of affairs when public authority is prepared to lose sight and virtually give up their control over public land, owned by them on the pretext of missing files. No effort is shown to have been made by any of the public authorities to check the ownership of the land. In

trying to avoid responsibility and save themselves the botheration of strictly interpreting the RTI Act, to their own narrow objectives of evading any possibility of disciplinary action, such vague, inane replies flood the Commission thus making a mockery of the RTI regime. The indifference of the PIOs is writ large in the poor and shabby representation even during the hearing in the form of deputing an official who is blissfully unaware of any of the facts of the case.

The role of the learned FAA is also interesting to note, despite being a public officer and an adjudicator - appellate authority he has had no qualms at all in merely directing the PIO to furnish a Revised Reply. The SDM report dated 27.07.2013 clearly informs that *"...the land in question is recorded in the name of Central Govt, Ministry of Rehabilitation and 6 Bigha of the said land has been encroached by a dharamshala etc erected thereupon.."*. It is unthinkable that a qualified and responsible officer like the FAA chose to be a mute spectator of the report and yet neither questioned the missing of the files nor gave any directions to remove the encroachment on the said land. Further, as a senior he does not even know how to ferret out this information from other quarters. He is completely oblivious to the information that this area is being encroached upon and hence it should be looked into immediately. Such FAAs are the bane of this RTI regime who instead of contributing are providing to be the hindrances in smooth dispensation of justice and information.

The Commission directs the FAA to check from the list of Evacuee properties whether khasra No.47/30 Haibat Pura is indeed an Evacuee property. In the event that the property in question is found to be an Evacuee property, the file related to the said property should be traced out, and if the same is not traceable, a categorical answer as to what action has been taken to lodge complaint about such a missing file should be submitted in the form of an Action Taken Report before the Commission, to be submitted within two weeks of receipt of this order.

If the Respondent does not find the property – khasra no. 47/30, Haibat Pura to be an Evacuee property, as per their list of properties, the Respondent through FAA-Spl. Secretary(L&B) shall file a duly notarised affidavit on a Non judicial stamp paper clearly stating that the land in question does not fall within the land under their jurisdiction. This is important since the other land agencies can then be asked to verify the ownership of the land and take necessary steps to prevent encroachment. The affidavit shall be submitted with an advance copy served upon the appellant, within four weeks of receipt of this order.

A copy of this order is directed to be marked to the Secretary, Land and Building Deptt., Govt of NCT of Delhi to ascertain the status of this piece of land. Given the conduct of the PIO and FAA; urgent steps are required to be initiated to verify ownership of the Khasra No. 47/30, Haibatpura and such other Government properties to salvage them from being trespassed, encroached and lost in the hands of miscreants and land mafia.

The appeal is hereby disposed of with the above directions.

(Yashovardhan Azad)
Information Commissioner

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

(R.P.Grover)
Designated Officer

Copy to:-
