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**BEFORE SANDEEP KUMAR (HAS) FAA UNDER RTI ACT-2005, -CUM-
DIRECTOR TOWN & COUNTRY PLANNING, SHIMLA-09**

Appeal No: 4/2014

Date of decision: 10-06-2014

In the matter of:

Nisha Sood w/o Umesh Sood, r/o Kotwali Bazzar, Shimla Hotel, Dharamshala District Kangra HP

Appellant

Vs

PIO-cum-Town & Country Planner, Divisional Town and Planning Office, Dharamshala District Kangra HP

Respondent

Order

Present appeal dated 08-05-2014 was received in this office on dated 16-05-2014. The appellant has submitted that the objections raised by the PIO vide letter No. DTP (D)RTI/T-54/2014-3687 dated 15-03-2014 to her RTI application dated 28-02-2014 are uncalled for under RTI Act and amounts to denial of information. She has prayed to allow her RTI application and direct the PIO to furnish the information without any delay.

Both the parties were heard in the office of Divisional Town and Planning Office, Dharamshala District Kangra HP on 02-06-2014 and the record of the case was also examined.

Appellant vide her application dated 28-02-2014 has sought following information from the PIO-cum-Divisional Town Planner Dharamshala under the RTI Act-2005:

1. Whether the construction raised by Lalit Kumar and Dalip Kumar s/o Madan r/o KB Dharamshala District Kangra on the land comprising in Khata No. 308, Khatouni Nos 578 to 584, Khasras No 4765/1091 etc situated at Mohal Up Mohal Dharamshala as



per Jamanbandi 2005-06 is as per the map sanctioned by the Town & Country Planning Department Dharamshala and the date of sanction thereof.

2. Whether any NOC for the installation of Electric and water Connection was issued or not. If yes the date thereof.
3. Whether the above said construction is in accordance with the map so passed by the department or not. If not what action has been taken by the department.

PIO-cum-Town & Country Planner, Divisional Town and Planning Office, Dharamshala District Kangra HP vide its letter No. DTP (D) RTI/T-54/2014-3687 dated 15-03-2014 has asked the appellant- applicant to intimate the year to which information pertains. In the present appeal, the appellant has agitated against the said letter of the PIO, calling it uncalled for and amounting to denial of information.

The information sought at point No 1 can be bifurcated into two components. One is that the applicant wanted to know that the persons mentioned have carried out the construction as per the approved map or not at a particular piece of land. This is a subject matter of field investigation and not a part of information existing with public authority and hence it is not incumbent upon the PIO to furnish this part of information. However, if any enquiry report regarding the construction matter is existing or pending in the office of Town & Country Planner, Divisional Town and Planning Office, Dharamshala District Kangra HP then the information becomes eligible for disclosure. Secondly under the same point 1, applicant has desired to know about the date of sanction of map in respect of land mentioned in favour of Lalit Kumar and Dalip Kumar s/o Madan r/o KB Dharamshala District Kangra. This later information very much qualifies for the disclosure under RTI Act. PIO's logic for communication of year of information by the applicant vide his letter dated 15-03-2014 is not understandable as the information of approved maps is available in his office name wise.

Similarly information as asked point No. 2 cannot be denied nor a particular year is required mandatorily to be mentioned by the applicant. In fact, she is asking for the date of NOC. How could she be asked to communicate the year to which information pertains?

Information pertaining to point No. 3 can only be revealed in case any inquiry in question has been made or initiated. It is not incumbent upon the PIO to initiate fresh enquiry under RTI Act and then to reveal to the applicant. In case if he does so that is purely a volunteer gesture and not mandated under the RTI Act.

So as per my discussion, observations and findings I find that the PIO has not dealt the RTI application of the appellant as per the spirit of the RTI Act. He is directed to furnish the information as said supra to the appellant within ten days of receipt of this letter free of cost. If any of the parties is not satisfied with this decision, he/she has a right to file an appeal before the " State Information Commissioner, Himachal Pradesh, Majitha House, Shimla-2" within thirty days of receipt of this order.

Copy of the order be supplied free of cost to the parties.

22/10/14
SANDEEP KUMAR (HAS)

1st Appellate Authority

(Under RTI Act)

-cum-Director Town & Country Planning

Shimla.

No. HIM/TP/RTI/2014-1656-57 Dt. 11.6.14

4. Copy forwarded to the following :-

1. Smt Nisha Sood W/o Sh Umesh Sood, s/o Kotitali Bazar, Shimla Hotel, Dharamshala Distt. Kangra. H.P.
2. The P.O. Town & Country Planner, Divisional Town Planning office, Dharamshala.

Malk
P.A to
Director,
Town & Country Pkg Deptt
H.P. Shimla-9.