



In the Tripura Information Commission
P. N. Complex: Gorkhabasti : Agartala

Complaint No TIC-09 of 2008-09.

Sri Subhra Sankar Laskar
C/O Dr. Santimoy Laskar
Banamalipur, Dighirpar
Agartala : West Tripura.

.....Complainant

Vs.

Sri A.K.Debbarma, BDO, Rupaichari RD Block, Rupaichari, South Tripura (State
Public Information Officer)Opposite Party

In the matter of the complaint under section 18(1)
of the Right to Information Act, 2005.

PRESENT:

1. Sri B.K.Chakraborty
State Chief Information Commissioner

2. Sri D.K.Daschaudhuri
State Information Commissioner

For the Complainant: The complainant Sri Subhra Sankar Laskar himself.

For the Opposite Party: Sri A.K.Debbarma, BDO, Rupaichari RD Block,
Rupaichari, South Tripura (State Public Information
Officer).

Date of lodging the complaint: 12.06.2008

Dates of hearing: 09.07.2008 & 29.07.2008

Date of pronouncing the judgment and order: 03.09.2008

JUDGMENT AND ORDER

Facts:

1. This complaint arose out of a written application dated 12.06.2008 of Sri Subhra Sankar Laskar (here in after referred to as the complainant) received by this Commission on the same date. It is alleged by the complainant that the Block Development Officer (BDO), Rupaichari RD Block being the State Public Information Officer (SPIO) did not furnish him the complete information in compliance with the judgment and order dated 30.04.2008 of this Commission

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passed in Complaint No-31 of 2007-08 between the complainant and the BDO, Rupaichari RD Block and others.

2. On perusal of the complaint, adequate grounds were found to take cognizance of the complaint under section 18(1) of the RTI Act, 2005 (for short the Act).
3. In response to the summons, Sri A.K.Debbarna, BDO, Rupaichari RD Block and the SPIO appeared and submitted his written representation.
4. Heard oral submissions made by the complainant and the OP.
5. After appreciation of the records, this Commission was of the prima facie view that the OP being the SPIO malafidely and without any reasonable cause did violate this Commission's order dated 30.04.2008 passed in Complaint No-31 of 2007-08 by not making complete disclosure of the information to the complainant and, therefore, the OP made himself liable to be penalized under section 20(1) of the Act. Accordingly, the OP was directed to appear before this Commission and to show cause as to why he should not be penalized under section 20(1) of the Act. In response, the OP sent his written submission on 28.07.2008 received by this Commission on 29.07.2008 taking the plea that he had no malafide intention for his failure to provide part of the information as alleged.

Points for decision:

6. In consideration of the facts and circumstances of the case, the following points are to be decided:-

- (i) Has the OP being the SPIO complied with the judgment and order dated 30.04.2008 of this Commission passed in Complaint No-31 of 2007-08 satisfactorily?
- (ii) Has the OP being the SPIO denied part of the information in violation of this Commission's order malafidely to warrant imposition of penalty under section 20(1) of the Act? If so, what shall be the quantum of the penalty?

Reasons for decision:

7. Both the points are taken together for discussion for the sake of convenience. The relevant portion of the decision given by this Commission on 30.04.2008 in Complaint No-31 of 2007-08 is quoted below:-

"The OP1 Sri A.K.Debbarna, BDO, Rupaichari RD Block is directed to provide the information sought for by the complainant vide his 4 (four) written requests as mentioned in paragraph - 1 above in the light of the discussion made in paragraph - 9 above within a period of 15 days from the date of passing of this judgment and order free of cost since the information could not be provided by the SPIO within the statutory period prescribed by the Act."

8. The contents of the paragraph-9 of the aforesaid judgment and order as referred to in the above decision is also quoted below:-



"Having regard to the discussion made here in above, we are to hold that the OP1 is under obligation to collect the relevant documents pertaining to the information under items No. (i), (iii) & (iv) from the respective offices and to provide the certified copies of those documents to the complainant free of cost within a period of 15 days from the date of passing of this judgment and order. Although the OP1 pleaded non-availability of the original TA bill of the complainant submitted on 30.03.2005 but, there is a written communication of the OP1 vide his letter No.F.2(17)/BDO/RPC/ESTT/2005-06/718 dated 21.06.2005 addressed to the complainant that the TA bill in issue was received in the office of the BDO, Rupaichari RD Block. So, we find no reason as to why the said document could not be found available in the office of the OP1. We, therefore, direct the OP1 to make further endeavour to trace out the said document and to provide certified copy of the same to the complainant within a period of 15 days from the date of passing of this judgment and order free of cost. In case of his failure to trace out the TA bill in issue, satisfactory and convincing explanation should be furnished to the complainant in this respect."

9. In paragraph-1 of the said judgment and order of this Commission, the description of the information sought for by the complainant were recorded as follows:-

- (i) Copy of the Master Rolls submitted for adjustment by the complainant for construction of East Sabroom Anganwadi Centre at East Sabroom village in execution of the work order No.F.7(3)-BDO/RPC/CSS/2003-04/7274-7300 dated 07.01.2004 of the BDO, Rupaichari RD Block.
- (ii) Copy of the TA bills submitted by the complainant on 30.03.2005 for the official tours of the journey performed by the complainant during the year 2004-05.
- (iii) Copy of the working reports of the complainant sent by the BDO, Rupaichari RD Block to the BDO, Karbook RD Block vide letter No. 102 dated 25.04.2006 for the period from 01.09.2005 to 18.04.2006 and from 19.04.2005 to 29.06.2006.
- (iv) Copy of the Radiogram message No. 671 dated 20.06.2006 sent by the District Magistrate & Collector, South Tripura District to the BDO, Rupaichari RD Block.

10. In his written representation dated 08.07.2008 received by this Commission on 09.07.2008, the OP submitted that before pronouncing the judgment and order by this Commission on 30.04.2008 in Complaint NO-31 of 2007-08, he vide his letter No.F.2(21-12)-BDO/RPC/Estt/2008-09/160 dated 23.04.2008 provided the following information to the complainant on the basis of the discussion made in course of hearing of the said complaint by this Commission:

- a) Photocopy of the message no- 671 dated 20.06.2006.
- b) Photocopy of the MRs against construction of East Sabroom AWC.
- c) Photocopy of the monthly diary w.e.f. 02.09.2005 to 18.04.2006 as submitted by Sri Laskar, Junior Engineer.

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11. It was further submitted by the OP that the monthly diary/working report for the period from 19.04.2006 to 29.06.2006 was not received by his office and, therefore, it could neither be sent to the BDO, Karbook RD Block nor its copy could be furnished to the complainant. The TA bill submitted by the complainant on 30.03.2005 could not be traced out and, therefore, it could not be furnished to the complainant and the latter had been requested on 23.04.2008 to re-submit the same with approved tour diary. The OP has also furnished a copy of the covering letter dated 23.04.2008 sent to the complainant. The complainant expressed his satisfaction over the information provided against items (a), (b) & (c) above but, agitated that the OP did not provide copy of the working report for the period from 19.04.2006 to 29.06.2006 and the TA bill submitted on 30.03.2005 in compliance with this Commission's order.

12. As required by this Commission, the complainant submitted receipted copy of his written representation dated 01.07.2006 addressed to the DM & Collector (S), Udaipur through the BDO, Karbook as the proof of submission of the working report for the period from 19.04.2006 to 29.06.2006. Perusal of the said representation reveals that it was addressed to the DM & Collector (S), Udaipur through the BDO, Karbook RD Block and it was received by the office of the BDO, Karbook on 01.07.2006. In paragraph (2) of the said representation, it was stated that the TA bill for the financial year 2004-05 was not traceable in the office of the BDO, Rupaichari RD Block. Again in the last part of paragraph (9) of the said representation, it was stated that the monthly diary for the period from 19.04.2006 to 29.06.2006 was attached along with the said representation. From the above representation of the complainant, it becomes clear that the fact of missing of the TA bill in issue from the office of the Rupaichari RD Block was detected prior to 01.07.2006 and that the monthly diary in issue, which is claimed to be the working report by the complainant was sent to the DM & Collector (S), Udaipur through the BDO, Karbook RD Block. The OP in his written representation dated 28.07.2008 submitted that he took over the charge of the office of the BDO, Rupaichari RD Block on 16.08.2007 and the matter in issue was related to the period of 2004-05 A.D. during the incumbency of Sri Jayanta Debbarma, the then BDO. So, in no way he was responsible for missing of the TA bill in issue and the so called working report as the same was not at all submitted by the complainant in his office. For the above reasons, the complainant was asked to submit a fresh TA bill with approved tour diary of the relevant period.

13. It reveals from letter No.F.2(21-12)-BDO/RPC/Estt/2008/1371 dated 23.08.2008 of the OP addressed to the complainant, a copy of which was endorsed to this Commission that the OP being the SPIO could collect the copy of the part working report for the period from 19.04.2006 to 29.05.2006 from the office of the BDO, Karbook RD Block and furnished the same to the complainant vide his letter referred to above. Along with the said letter, the OP has also enclosed a copy of the letter No.F.2(4)/BDO/KBK/Estt/2008/1980 dated 22.08.2008 issued by the BDO, Karbook RD Block disclosing that it was not possible to send the working report for the period from 30.05.2006 to 29.06.2006 as no such working report for the said period was submitted by the complainant in the office of the BDO, Karbook RD Block.

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14. In view of the discussion made here in above, we hold that the complainant could not establish the fact that the working report for the period from 19.04.2006 to 29.06.2006 was at all submitted to the office of the BDO, Rupaichari RD Block. It is also established that the TA bill in issue was missing from the office of the BDO, Rupaichari RD Block long before the OP took over the charge of BDO, Rupaichari RD Block. An SPIO is under obligation to make disclosure of any information which is in existence in the custody of the Public Authority. Since, the records pertaining to the information were not in existence in the custody of the OP, he cannot be held guilty for not providing the information to the complainant amounting to violation of the order of this Commission. It is clear from the written representation of the OP as well as other steps taken by him that he made enough endeavor to trace out the working report and the TA bill in issue and he provided satisfactory explanation for that. In fact, the OP could collect part working report for the period from 19.04.2006 to 29.05.2006 from the office of the BDO, Karbook RD Block and furnished the same to the complainant. So, we find no malafide intention on the part of the OP in his failure to provide part of the information as alleged by the complainant.

15. Consequently, we hold that the information provided by the OP being the SPIO to the complainant in compliance with this Commission's order dated 30.04.2008 passed in Complaint No-31 of 2007-08 were satisfactory and adequate. We do not find any reasonable ground to penalize the OP being the SPIO under section 20(1) of the Act. The complaint, therefore, fails.

Decision:

16. In fine, the complaint is dismissed on contest,
 17. Let copy of this judgment and order be sent to the complainant and the OP.
 18. Pronounced.

Sd/-
 (D.K.Daschaudhuri)
 State Information Commissioner

Sd/-
 (B.K.Chakraborty)
 (State Chief Information Commissioner)

Authenticated

3/9/08

(S.C.Saha)
 Secretary

Tripura Information Commission



Tripura Information Commission
P. N. Complex: Gorkhabasti : Agartala

Complaint No TIC- 09 of 2008-09 / 1077-78

Dated, 03.09.2008

Copy to:-

- 1.Sri Subhra Sankar Laskar, C/O Dr. Santimoy Laskar, Banamalipur, Dighirpar, Agartala , West Tripura (Complainant).
- 2.Sri A.K.Debbarna, BDO, Rupaichari RD Block, Rupaichari, South Tripura (State Public Information Officer) - OP.

3/9/08
(S.C.Saha)
Secretary

Tripura Information Commission