



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

Appeal No TIC-14 of 2008-09.

Sri Bhanu Lodh
Commercial Officer
Tripura Jute Mills Ltd.
P.O.- Agartala O.N.G.C.- 799014, Agartala

.....Appellant

Vs.

1. Sri D. Datta, Managing Director, Tripura Jute Mills Ltd., Agartala (First Appellate Authority).
2. Sri A.K.Gupta, Senior Production Officer, Tripura Jute Mills Ltd., Agartala (State Public Information Officer).....Respondents

In the matter of a second appeal under section 19(3)
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 Appellant: The appellant Sri Bhanu Lodh himself.

For the Respondent No.1: Sri D. Datta, Managing Director, Tripura Jute Mills Ltd., Agartala (First Appellate Authority).

For the Respondent No.2: Sri A.K.Gupta, Senior Production Officer, Tripura Jute Mills Ltd., Agartala (State Public Information Officer).

Date of lodging second appeal : 15.07.2008

Dates of hearing of second appeal: 05.08.2008, 18.08.2008 & 11.09.2008

Date of pronouncing judgment and order: 04.10.2008

JUDGMENT & ORDER

Facts:

1. This second appeal under section 19(3) of the RTI Act, 2005 (for short the Act) arose out of a memorandum of appeal dated 14.07.2008 of Sri Bhanu Lodh (here in after referred to as the appellant) received by this Commission on 15.07.2008.

2. Facts leading to this second appeal are that the appellant submitted on 21.11.2007 a written request to the State Public Information Officer (SPIO) in the Tripura Jute Mills Ltd (TJML), Agartala seeking the following information under the Act:-

" Photostat copies/ xerox copies reply in respect of Memorandum NO.TJ/MD(6)/1889 dated 09.11.2006, reply furnished on 13.11.2006 address to the Managing Director, TJML, Agartala with Marked confidential by Shri A.K.Gupta, Mill Manager, TJML against Shri Bhanu Lodh."

Sri A.K.Gupta, Senior Production Officer, TJML, Agartala being the SPIO responded to the above written request vide letter No.F.TJ/MM/SQC(6)/2272 dated 19.12.2007 denying disclosure of the information as it was a third party information. Against the said decision of the SPIO, the appellant preferred a first appeal on 29.12.2007 to the Managing Director (MD), TJML being the First Appellate Authority (FAA), which was dismissed by the latter passing an order dated 25.06.2008 invoking the provisions of section 8(1)(g) of the Act. Being aggrieved with the above decision of the FAA, the appellant preferred this second appeal before this Commission for having access to the information sought for.

3. In response to the summons, the Respondent 1 Sri D.Datta, MD, TJML, Agartala and the FAA and the Respondent 2 Sri A.K.Gupta, Senior Production Officer, TJML, Agartala and the SPIO appeared and submitted their respective written representations before this Commission. As required by this Commission, the Respondent 1 also produced in a sealed cover the confidential letter in issue, copy of which was sought for by the appellant, for examination by this Commission.

4. The appellant has also submitted two written rejoinders to his memorandum of appeal on 05.08.2008 and 18.08.2008.

Issue for decision:

5. The only issue to be determined is whether the decisions of the Respondents 1 & 2 being the FAA and the SPIO respectively are maintainable and if the appellant is entitled to have access to the information sought for.

Reasons for decision:

6. The description of the information as recorded in paragraph -2 above, which was actually a reply written by the Respondent 2 against the show cause notice served upon him by the then MD, TJML, Agartala as was arisen out of making some alleged false documents by the Respondent 2 regarding the service particulars of the appellant.

[Handwritten signature]



7. Since, the creator of the letter pertaining to the information in issue was the Respondent 2 himself, according to the principle of natural justice, he being the SPIO should not have taken any decision about disclosure of the information. Rather, he should have referred the written request in issue to the head of the Public Authority for making appropriate arrangement for disposal of the same designating another SPIO. So, the decision of the Respondent 2 taken on 19.12.2007 denying disclosure of the information was void ab initio and, therefore, is liable to be set aside.

8. The Respondent 1 being the FAA dismissed the first appeal in issue invoking the provisions of section 8(1)(g) of the Act as, according to him, the disclosure of the information sought for by the appellant would endanger the life and physical safety of the Respondent 2 who was the author of the letter pertaining to the information in issue.


9. As required by this Commission, the Respondent 1 being the head of the Public Authority produced the letter pertaining to the information in issue in a sealed cover to assess the bonafide of the decision of the FAA. Since, the Public Authority had decided to keep the letter confidential, we are refrained from discussing the contents of the letter here. However, we find some materials in it to justify the apprehension of endangering the life and physical safety of the author of the letter if disclosed at this stage. However, if at any stage, the competent authority of the TJML decides to take any action against the person indicated in the letter in issue relying on the said letter, the indicated person will have the right to get a copy of the same according to the principle of natural justice.

10. We are also against the disclosure of the information in issue invoking the provisions of section 8(1)(e) of the Act, which speaks that there shall be no obligation to give any citizen the information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants disclosure of such information. In the present case, there are materials to hold that the Respondent 2 in his capacity as a Mill Manager (In-charge) submitted a reply marking it confidential to the show cause notice served upon him by the MD, TJML. So, the letter in issue was received by the MD, TJML from the Respondent 2 in its fiduciary relationship. The intention of the Public Authority concerned not to disclose the information in the public interest is quite apparent in the judgment and order dated 25.06.2008 of the Respondent 1 and also in the written representation submitted by him before this Commission. So, this Commission is of the view that the appellant is not entitled to have access to the information sought for by him for the reasons discussed here in above.

Decision:

11. In fine, this second appeal is dismissed on contest with the following orders:-

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- (i) The decision dated 19.12.2007 of the Respondent 2 being the SPIO is set aside.
- (ii) The order dated 25.06.2008 passed by the Respondent 1 being the FAA in the first appeal dated 29.12.2007 of the appellant is upheld. In addition, the appellant is also not entitled to have access to the information sought for as per provisions of section 8(1)(e) of the Act.

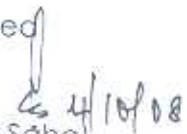
12. Let copy of this judgment and order be sent to the appellant and the Respondents.

13. Pronounced.

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

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

Authenticated


(S.C.Saha)
Secretary

Tripura Information Commission

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

Appeal No TIC- 14 of 2008-09 / 1221-23

Dated, 04.10.2008

Copy to:-

1. Sri Bhanu Lodh, Commercial Officer, Tripura Jute Mills Ltd., P.O.- Agartala O.N.G.C.- 799014, Agartala (Appellant).
2. Sri D. Datta, Managing Director, Tripura Jute Mills Ltd., Agartala (First Appellate Authority).
3. Sri A.K.Gupta, Senior Production Officer, Tripura Jute Mills Ltd., Agartala (State Public Information Officer).


(S.C.Saha)
Secretary
Tripura Information Commission