



IN THE TRIPURA INFORMATION COMMISSION
P. N. Complex, Gorkhabasti : Agartala

Appeal No TIC- 38 of 2008-09.

Sri Bhajan Ch. Debnath
S/O Late Benimadhab Debnath
Dhaleswar Road No-11 (near bundh)
P.O.- Dhaleswar- 799007
West Tripura.....

Appellant

Vs.

1.Sri C.M.Deb Barma, Chief Conservator of Forests, HQ, office of the PCCF, Government of Tripura, Agartala (First Appellate Authority).
2.Sri C.K.Das, Deputy Conservator of Forests (W/L), office of the PCCF, Government of Tripura, 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 Bhajan Ch. Debnath himself.

For the Respondent No.1: Sri C.M.Deb Barma, Chief Conservator of Forests, HQ, office of the PCCF, Government of Tripura, Agartala (First Appellate Authority).

For the Respondent No.2: Sri C.K.Das, Deputy Conservator of Forests (W/L), office of the PCCF, Government of Tripura, Agartala (State Public Information Officer)

Date of lodging second appeal : 19.01.2009

Date of hearing of second appeal: 11.02.2009

Date of pronouncing judgment and order: 07.03.2009

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 19.01.2009 of Sri Bhajan Ch.

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Debnath (here in after referred to as the appellant) received by this Commission on the same date. Facts leading to this second appeal are that the appellant made a written request on 04.08.2008 to the State Public Information Officer (SPIO) in the office of the PCCF, Government of Tripura, Agartala seeking certain items of information under the Act depositing requisite application fee. In response, the concerned SPIO provided part information denying two items of information. Being dissatisfied, the appellant challenged the decision of the SPIO preferring a first appeal on 09.09.2008 before the First Appellate Authority (FAA) in the office of the PCCF, Government of Tripura, Agartala. The concerned FAA decided the first appeal registered as Appeal No-15 of 2008-09 in his file by an order dated 08.12.2008, which was communicated to the appellant on 12.01.2009. Being aggrieved with the above decision dated 08.12.2008 of the FAA, the appellant preferred this second appeal before this Commission on the ground that the concerned FAA did not give any specific direction to the SPIO for providing the balance information sought for under items 3 & 4 as mentioned in his written request in issue nor assigned any reason for long delay in deciding the first appeal. Hence, the appellant preferred this second appeal before this Commission seeking a direction to be issued to the concerned SPIO for providing the balance information. Along with the memorandum of second appeal, the appellant furnished photocopies of all the relevant papers.

2. On perusal of the memorandum of appeal with enclosures, it was found in form and within time and, therefore, was registered as a second appeal under section 19(3) of the Act.

3. In response to the summons, Respondent 2 Sri C.K.Das, Deputy Conservator of Forests (W/L), office of the PCCF, Government of Tripura and the SPIO appeared and submitted a written representation. Respondent 1 Sri C.M.Deb Barma, CCF, HQ, office of the PCCF, Government of Tripura and the FAA remained absent.

4. Heard oral submissions placed by the appellant and the Respondent 2.

Issues for decision:

5. Considering the facts and the circumstances of the case, the following issues are to be decided:-

- (i) Is the decision dated 08.12.2008 passed by the Respondent 1 being the FAA in Appeal No-15 of 2008-09 in his file maintainable?
- (ii) Is the appellant entitled to have access to the information as sought for against items 3 & 4 in his written request dated 04.08.2008?

Reasons for decision:

6. Both the issues are taken together for discussion for the sake of convenience. The appellant restricted his appeal to the information sought for

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under items 3 & 4 as described in his written request dated 04.08.2008 written in Bengali language, the English version of which is given below:-

*Item -3 :- ' Then it may be presumed that in the Forest Department, the punishment of censure is used depending upon the individual in case of promotion. What is the reason for it?'

Item - 4:- ' Then it is proved that the promotion of Sri Bhajan Ch. Debnath to the post of Accountant was withheld intentionally imposing punishment of censure in a trifle matter. On the other hand, Sri Narayan Choudhury, the hero of theft of money was given promotion to the post of ACCF without realizing the money. What is the reason for taking two inconsistent decisions under the same situation?

Copy of the minutes of the DPC giving promotion to Sri Narayan Choudhury with order of his promotion be provided."

7. The appellant submitting a written rejoinder clarified that the information namely, ' the copy of the minutes of the DPC giving promotion to Sri Narayan Choudhury with order of his promotion' was not given any separate item number but it was treated to be a part of item 4. Accordingly, let this portion of information be treated as a part of item -4.

8. In his intimation under letter No.F.21(43)/RTI/08/ 17596 dated 15.09.2008 addressed to the appellant, the Respondent 2 being the SPIO stated as follows:-

" Items 3 & 4 - The TFS cadre being controlled by the Government in the GA(P&T) Department. We do not have details i.e. DPC proceedings etc. in connection with the promotion matter of Sri Narayan Choudhury, SFR to the Post of TFS, Grade-II. However, Sri Narayan Choudhury was promoted to the post of TFS, Grade-II w.e.from 17.01.2000 (Notification enclosed)."

9. The Respondent 1 being the FAA decided the first appeal of the appellant in issue on 08.12.2008 with the following conclusion as it is revealed from the photocopy of the relevant judgment and order supplied by the appellant:-

"7. On going through the above and perusal of the records the following is ordered:

(i) The application seeking certain information preferred by Sri Bhajan Ch. Debnath was despatched by the SPIO after 9 days delay. The SPIO may be careful to provide the information to the information seeker under RTI Act, 2005 in prescribed time in future and also get acknowledgement/confirmation of receipt.

(ii) As the information seeker did not receive from the post as stated by him the representative of the SPIO was asked to provide the copy. By obtaining the receipted copy it was handed over to the information seeker by the representative of SPIO in my presence."



10. We have carefully gone through the particulars of the information sought for by the appellant under-items 3 & 4 as described in paragraph- 6 above, the intimation given by the Respondent 2 being the SPIO on 15.09.2008 as mentioned in paragraph – 8 above and the order of the FAA as mentioned in the preceding paragraph. We have also taken into consideration the submission placed by the appellant and the Respondent 2 in course of hearing. In our considered view, except the information, namely, the copy of the minutes of the DPC giving promotion to Sri Narayan Choudhury with order of his promotion, other information under items – 3 & 4 of the written request in issue are not at all information within the meaning of section 2(f) of the Act as they are either arguments of the appellant or in the form of interrogatories. So, the concerned SPIO was under no obligation to provide such information in the form of answer to the queries. According to the Respondent 2, the above queries were vexatious intending to mount pressure upon the SPIO to go beyond the jurisdiction. The submission of the Respondent 2 deserve due consideration. We are constrained to direct the appellant to refrain from asking information in the form of interrogatories. As regards the second part of information under item - 4 as mentioned here-in-above, the Respondent 2 being the SPIO already supplied copy of the notification under which promotion was given to Sri Narayan Choudhury. He also intimated to the appellant that the matter relating to the minutes of DPC giving promotion to Sri Narayan Choudhury was dealt by the GA (P&T) Department, Government of Tripura. But, he failed to take recourse of the provisions of section 6(3) of the Act by transferring the written request in issue to the concerned public authority so far as that part of the information is concerned. So, the Respondent 2 being the SPIO is under obligation to transfer the written request in issue to the public authority of GA (P&T) Department, Government of Tripura for disposal of the request seeking information, namely, the minutes of the DPC proceeding giving promotion to Sri Narayan Choudhury to the post of TFS, Grade-II.

11. As regards maintainability of the order dated 08.12.2008 of the Respondent 1 passed in Appeal No- 15 of 2008-09 in his file as cited in paragraph- 9 above, in fact, it contains no direction to the concerned SPIO for providing any information against the request of the appellant under items – 3 & 4. Nowhere in the impugned judgment and order, the issue agitated by the appellant was discussed and any decision was given. Thus, in the impugned order passed by the Respondent 1, the principles of natural justice were not at all followed. The pivotal issues to be decided by the FAA were not ascertained, discussed and decided. Since, no operative decision was passed by the Respondent 1 being the FAA in the impugned judgment and order, the question of maintainability does not arise. The Respondent 1 being the FAA is, therefore, directed to be very careful in future in deciding the first appeal under section 19(1) of the Act following the principle of natural justice.

Decision:

12. In fine, the appeal is partially allowed on contest with the order that the Respondent 2 being the SPIO shall transfer a copy of the written request in issue

in accordance with the provisions of section 6(3) of the Act and Rule 13(7) of the Tripura Right to Information Rules, 2008 to the public authority of the GA(P&T) Department, Government of Tripura within 5 days from the date of passing of this judgment and order for disposal of the request seeking the information, namely, the minutes of the DPC giving promotion of Sri Narayan Choudhury to the post of TFS, Grade-II under an intimation to the appellant.

13. Let copy of this judgment and order be sent to the appellant and the Respondents. Also send a copy of this judgment and order to the PCCF, Government of Tripura being the head of the Public Authority.

14. Pronounced.

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

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

Authenticated

7/3/08
(S.C.Saha)
Secretary

Tripura Information Commission

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

Appeal No- 38 of 2008-09 *154-57*

Dated, 07.03.2009

Copy to:-

- 1.Sri Bhajan Ch. Debnath, S/O Late Benimadhab Debnath, Dhaleswar Road No-11 (near bundh), P.O.- Dhaleswar- 799007, West Tripura (Appellant).
- 2.Sri C.M.Deb Barma, Chief Conservator of Forests, HQ, office of the PCCF, Government of Tripura, Agartala (First Appellate Authority)- Respondent 1.
- 3.Sri C.K.Das, Deputy Conservator of Forests (W/L), office of the PCCF, Government of Tripura, Agartala(State Public Information Officer)- Respondent 2
4. The Principal Chief Conservator of Forests, Government of Tripura, Agartala (Head of the Public Authority).

7/3/08
(S.C.Saha)
Secretary

Tripura Information Commission