



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

Complaint Nos. - 43,44&45 of 2007-08.

Smt. Jyotsna Roy  
W/O Sri Ramchandra Chhetree  
Ramkrishnapalli  
Agartala-799006.....Complainant

Vs

1. Dr. B. Palit, Joint Director of Higher Education, Government of Tripura, Agartala (State Public Information Officer).
2. Sri Rameswar Bhattacharjee, Principal - in - charge, Government Music College, Government of Tripura, Agartala (State Public Information Officer).
3. The Director of Higher Education, Government of Tripura, Agartala (Head of the Public Authority).....Opposite Parties

In the matter of a 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 Smt. Jyotsna Roy herself with Sri Rishi Raj Chhetree.
- For the Opposite Party No.1: Dr. B. Palit, Joint Director of Higher Education, Government of Tripura, Agartala (State Public Information Officer).
- For the Opposite Party No.2: Sri Rameswar Bhattacharjee, Principal-in-charge, Government Music College, Government of Tripura, Agartala (State Public Information Officer).
- For the Opposite Party No.3: Sri M.S.Bhattacharjee, Director of Higher Education, Government of Tripura, Agartala ( Head of the Public Authority).

Date of lodging complaints: 16.02.2008

Dates of hearing the complaints: 27.03.2008

Date of pronouncing judgment and order: 05.05.2008



## JUDGMENT & ORDER

Facts:

1. Smt. Jyotsna Roy (here-in-after referred to as the complainant) submitted before this Commission on 16.02.2008 three separate written applications alleging that Dr. B. Palit, Joint Director of Higher Education, Government of Tripura being the State Public Information Officer (SPIO) refused disclosure of the information against her three separate written requests submitted to him on 03.12.2007 vide a communication dated 13.02.2008 after lapse of the statutory period for providing the information as prescribed by the RTI Act, 2005 (for short the Act).

2. On perusal of the written applications, adequate materials are found to take cognizance of complaints under section 18(1) of the Act and accordingly, three separate complaints have been registered as complaint Nos. 43,44 & 45 of 2007-08. Since, all the three complaints are lodged by the same complainant Smt. Jyotsna Roy against the same Opposite Parties (OPs) and the subject matters of all the complaints arose out of the same issue, for the sake of convenience, all these three complaints are clubbed together for holding enquiry and disposal by passing a common judgment and order.

3. In response to the summons, OP 1 Dr. B. Palit, Joint Director of Higher Education, Government of Tripura (SPIO), OP 2 Sri Rameswar Bhattacharjee, Principal-in-charge, Government Music College, Government of Tripura and OP 3 Sri M.S.Bhattacharjee, Director of Higher Education, Government of Tripura appeared and submitted their respective written representations. OP 1 also submitted an additional written statement on 27.03.2008 in response to the queries made by this Commission.

### Point for decisions:

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

- (i) Are the complaints maintainable in their present form?
- (ii) Does the decision of the OP1 dated 13.02.2008 denying disclosure of the information to the complainant suffer from infirmity?
- (iii) Is the complainant entitled to have access to the information sought for vide her three written requests in issue?
- (iv) To what relief the complainant is entitled?

### Reasons for decision:

5. Point No.(i): OP 3 being the head of the Public Authority in his written representation pointed out that he was not a necessary party to these complaints and that the complainant should not have

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approached this Commission avoiding the scope of preferring a first appeal before the First Appellate Authority (FAA) against the decision communicated to her by the OP1 being the SPIO vide his intimation letter dated 13.02.2008. OP 3 although agitated that he should not have been summoned by this Commission, but did not challenge the authority of this Commission to call for appearance of anyone, if so requires for the interest of disposal of any complaint.

6. However, in order to remove the confusion of the OP 3 in this regard, we are inclined to explain the circumstances under which the presence of the head of the Public Authority was considered necessary. It reveals from the photocopies of the written requests in issue and the written complaints of the complainant that the Principal-in-charge of Government Music College, Government of Tripura and the Joint Director of Higher Education, Government of Tripura were approached by the complainant for having access to the same information but, she was not provided with any information at all within the statutory period as prescribed by the Act. On some previous occasions also, it was noticed by this Commission that the SPIO in the Directorate of Higher Education did not respond to the written request seeking information within the statutory period, for which he was formally warned by this Commission. In view of the above situation, this Commission felt it expedient to hear the complaint in presence of the head of the Public Authority so that both the stakeholders can be made more sincere and efficient to ensure effective implementation of the provisions of the Act. In the present case, it is well apparent that the information was not provided to the complainant within the statutory period and that the belated denial of the information by the OP1 also suffered from infirmities, which may be evident from the discussion follows. For the reasons mentioned above, the complainant had the option either to prefer a complaint under sub sections (b) & (c) of section 18(1) of the Act or to prefer a first appeal under section 19(1) of the Act. Since, there exists alternative options for an information seeker in the Act, it is up to him to decide which option he would prefer. Therefore, choice of the complainant to prefer the complaint under section 18(1) of the Act cannot be held illegal and not maintainable and taking cognizance of the complaints by this Commission on the basis of the written complaints submitted by the complainant is absolutely in accordance with the provisions of the Act.

7. Points No.(ii), (iii) & (iv): For the sake of convenience, all the three points are taken together for discussion. The complainant under her three written requests dated 03.12.2007 as received by the OP 1 on 04.12.2007 sought for having access to the information, which are consolidated below:-

- (i) Total no. of posts for Assistant Professor ( contract basis ) and reservation category of all the posts advertised ( subject wise ).
- (ii) Nos. of applicants applied for the post of Assistant Professor (contract basis).
- (iii) Name of the selected candidates for all the posts advertised (subject wise).
- (iv) Details of selection procedure and date, time and venue of interview for the post of Assistant Professor (contract basis).
- (v) Name of the members of the Expert Committee for interview for the post of Assistant Professor (contract basis).
- (vi) Criteria for issuing of interview card for the post of Assistant Professor (contract basis).
- (vii) Reasons for disqualifying the candidates having Nipun and Pravin degree applied for Assistant Professor (contract basis- subject wise).



- (viii) Bio-data of all the candidates applied for Assistant Professor (contract basis – subject wise).

8. In his written intimation dated 13.02.2008, the OP 1 informed the complainant that the Department of Higher Education has not issued any engagement order and until the process of engagement is completed, such information could not be provided. Thus, from the contention of the OP1, it can be presumed that after completion of the process of engagement, he will be in a position to disclose the information sought for.

9. We have carefully examined the description of the information sought for by the complainant under her three written requests in issue. It is admitted fact that no candidate has yet been selected by the Directorate of Higher Education for the post of Assistant Professor (contract basis) for the Government Music College, Agartala. In this situation, out of the 8 items of information sought for by the complainant, we find that only 3 items of information i.e. items No. (iii), (v) & (viii) are closely connected with the process of engagement in the post of Assistant Professor (contract basis), which could not be disclosed before completion of the process. But, we find no reason as to why the remaining 5 items of information could not be disclosed, which in no way will disturb the selection process. Thus, we find that the decision of the OP1 being the SPIO for non-disclosure of the above 5 items of information is not maintainable and, therefore, his decision to such extent is liable to be dismissed.

10. In view of the discussion made here in above, we are to hold that the complainant is not entitled to have access to the information against items No. (iii), (v) & (viii) as mentioned in paragraph - 7 above at this stage since the selection process has not yet completed. However, she is entitled to have access to the remaining information under items No. (i), (ii), (iv), (vi) & (vii) as mentioned in paragraph – 7 above, which the OP1 shall provide to the complainant 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 to the complainant by the SPIO within the prescribed period.

11. Before parting with the judgment, we are constrained to make the observation that the OP1 being the SPIO caused delay of about 21 days in responding to the written requests of the complainant. His explanation is that after receipt, the written requests were referred by him to the concerned section for providing the information and for obtaining the information from the concerned section the delay has been caused. We have gone through the photocopy of the letter No.F.16(4)-DHE/RTI/06 dated 11.12.2007 sent by the OP1 to the Branch Officer, Establishment (G) section of the Directorate of Higher Education asking him to make necessary arrangement for supply of the information materials with due authentication within the 7 days from the date of receipt of the letter. According to the said letter, the information materials should have reached the OP1 within 18.12.2007 and thereafter, the OP1 should have taken the decision on the disposal of the written requests in issue. Thus, the explanation offered by the OP1 to substantiate the long delay caused in responding to the written requests in issue is not tenable. We, therefore, direct the OP1 once more to be more serious about disposal of the written request seeking information under the Act within the period prescribed by the Act.



Decision:

12. In fine, the complaint is partially allowed on contest. The OP1 Dr. B. Palit, Joint Director of Higher Education, Government of Tripura being the SPIO is directed to provide the information to the complainant under items No.(i),(ii),(iv), (vi) & (vii) as mentioned in paragraph - 7 above within a period of 15 days from the date of passing of this judgment and order free of cost under intimation to this Commission.

13. Let copy of this judgment and order be sent to the complainant and the OPs.

14. Pronounced.

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

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

Authenticated.

*ca 4/5/08*  
(S.C.Saha)  
Secretary

Tripura Information Commission

TRIPURA INFORMATION COMMISSION  
P. N. Complex: Gorkhabasti : Agartala

Complaint Nos. 43, 44 & 45 of 2007-08/ *526-29*

May 05, 2008

Copy to:

1. Smt. Jyotsna Roy, W/O Sri Ramchandra Chhetree, Ramkrishnapalli, Agartala-799006 (Complainant).
2. Dr. B. Palit, Joint Director of Higher Education, Government of Tripura, Agartala (State Public Information Officer).
3. Sri Rameswar Bhattacharjee, Principal in - charge, Government Music College, Government of Tripura, Agartala (State Public Information Officer).
4. Sri M.S.Bhattacharjee, Director of Higher Education, Government of Tripura, Agartala (Head of the Public Authority)

*ca 4/5/08*  
(S.C.Saha)  
Secretary

Tripura Information Commission