



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

Complaint No TIC-53 of 2008-09

Sri Haripada Deb  
Driver, (DRW)  
District Labour Office  
Kailashahar, North Tripura.....Complainant

Vs.

Sri M.K.Nath, Labour Commissioner, Government of Tripura, Agartala (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: Complainant Sri Haripada Deb himself.

For the Opposite Party: 1.Sri S. Karmakar, Deputy Labour Commissioner,  
Government of Tripura, Agartala for & on behalf of Sri  
M.K.Nath, Labour Commissioner, Government of  
Tripura, Agartala and the State Public Information  
Officer duly authorized.  
2. Sri R.K. Das, District Labour Officer, North Tripura District,  
Kailashahar & the State Public Information Officer.

Date of lodging the complaint: 19.03.2009

Date of hearing: 16.04.2009

Date of pronouncing the judgment and order: 08.05.2009

**JUDGMENT AND ORDER**

**Facts:**

1. This complaint arose out of a written application dated 16.03.2009 of Sri Haripada Deb (here in after referred to as the complainant) sent by registered post and received by this Commission on 19.03.2009. The case of the



complainant is that he submitted on 30.08.2008 a written request to the Labour Commissioner, Government of Tripura, Agartala and the State Public Information Officer (SPIO) through the District Labour Officer (DLO), North Tripura District, Kailashahar seeking three items of information under the RTI Act, 2005 (for short the Act). The said written request was forwarded to the Labour Commissioner, Government of Tripura by the DLO, North Tripura District, Kailashahar vide latter's covering letter No.F.6-Lab/KLS/RTI/06/1176 dated 02.09.2008. Having no response within the statutory period, the complainant sent a reminder on 04.11.2008. But, till the date of lodging of this complaint, the complainant received no response from the concerned SPIO. Hence, the complainant approached this Commission by way of this complaint for having access to the information sought for. Along with the written application, the complainant furnished photocopies of all the relevant papers.

2. On perusal of the written application with enclosures, cognizance was taken of a complaint under section 18(1) of the Act and accordingly, was registered.

3. In response to the summons, Opposite Party (OP) Sri M.K.Nath, Labour Commissioner, Government of Tripura and the SPIO authorized Sri S. Karmakar, Deputy Labour Commissioner, Government of Tripura to appear on his behalf. He also directed Sri R.K.Das, DLO, North Tripura District, Kailashahar and the SPIO to appear before this Commission since he was the SPIO for the North Tripura District Labour Office, Kailashahar. Accordingly, both Sri Karmakar and Sri Das appeared and submitted their respective written representations before this Commission, copies of which were furnished to the complainant. It reveals from the written representations of Sri Karmakar and Sri Das that the latter provided information to the complainant in response to latter's written request dated 30.08.2008 after the aforesaid information were made available to him by the office of the Labour Commissioner, Government of Tripura on 03.04.2009.

4. The complainant submitted a written rejoinder on 16.04.2009 disclosing that on 09.04.2009, he received the information through the DLO, North Tripura District, Kailashahar, which satisfied his requirement sought for under items - 1 & 2 but, no information was provided to him against item -3 of his written request dated 30.08.2008.

**Points for decision:**

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

- (i) Is the complainant entitled to have access to the information sought for under item- 3 of his written request dated 30.08.2008?
- (ii) Did the OP Sri M.K.Nath, Labour Commissioner, Government of Tripura being the SPIO act contrary to the provisions of the Act to warrant penalty under section 20(1) of the Act?

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**Reasons for decision:**

6. Point No.(i): We have carefully gone through the written request dated 30.08.2008 of the complainant, his written complaint dated 16.03.2009 with written rejoinder dated 16.04.2009 and the written representations submitted by Sri S. Karmakar, Deputy Labour Commissioner, Government of Tripura and Sri R.K.Das, DLO, North Tripura District, Kailashahar.

7. It is admitted fact that the written request dated 30.08.2008 accompanied by application fee of Rs. 10/- was submitted to the DLO, North Tripura District, Kailashahar on 30.08.2008 and it was forwarded on 02.09.2008 to the Labour Commissioner, Government of Tripura since it was addressed to the latter. So, the Labour Commissioner, Government of Tripura being the SPIO himself was under obligation to dispose of the written request in issue by taking necessary decision thereon instead of asking the DLO, North Tripura District, Kailashahar to take necessary action on the written request. Perusal of the information provided to the complainant by the DLO, North Tripura District, Kailashahar reveals that the copies of the documents were not duly certified to be true copies of the originals. Moreover, the information provided satisfied the requirement of the complainant only against items - 1 & 2 as mentioned in his written request in issue. But, no information has been provided to the complainant against item-3 of his written request, under which the complainant wanted to know the fate of his prayer to the Government seeking regular scale of pay as per Government policy. In course of hearing, it was revealed from discussion that the case of the complainant for regularization of his service as a driver was under consideration of the Transport Department, Government of Tripura and the matter was duly taken up by the Commissioner & Secretary to the Government of Tripura, Labour Department with the Commissioner & Secretary to the Government of Tripura, Finance Department vide letter No.F.5(7)-LAB/TSTE/87/127 dated 01.04.2006. So, it was incumbent upon the Labour Commissioner, Government of Tripura being the SPIO to transfer the written request in issue in respect of the Item -3 of the information sought for to the head of the public authority of the Transport Department for disposal. As regards competency of the complainant to have access to the said information, it has not been challenged by the representatives appeared for and on behalf of the OP. We also do not find any bar in law to make disclosure of the said information to the complainant. It is, therefore, held that the OP being the SPIO in the office of the Labour Commissioner, Government of Tripura is required to provide the information against items - 1 & 2 afresh under his own signature and certifying the documents to be true copies of the originals to the complainant. He is also under obligation to make transfer of the written request in respect of item -3 in issue to the Commissioner & Secretary to the Government of Tripura, Transport Department being the head of the public authority for disposal according to the relevant provisions of the Act and the Tripura Right to Information Rules, 2008. At the time of making transfer of the written request in issue, the OP shall furnish a detailed reference of the case of the complainant to the Commissioner & Secretary to the Government of Tripura, Transport Department being the head of the public authority.





8. Point No.(ii): After perusal of the correspondences made between the office of the OP and the DLO, North Tripura District, Kailashahar, it is observed that the OP i.e. Sri M.K.Nath, Labour Commissioner, Government of Tripura and the SPIO did not act quasi judicially following the principle of natural justice to dispose of the written request of the complainant in issue as required by the Act. The whole matter was dealt administratively by the office of the Labour Commissioner, Government of Tripura as it is found that the Deputy Labour Commissioner, Government of Tripura was entrusted to make necessary correspondences on behalf of the Labour Commissioner, Government of Tripura with the DLO, North Tripura District, Kailashahar, which was contrary to the provisions of the Act. Under section 7(1) of the Act, it is the concerned SPIO to dispose of the written request made under section 6(1) of the Act by himself and he cannot divest his power to take decision on the written request seeking information to any other officer. Moreover, it is further observed that all the information sought for by the complainant were very much available in the custody of the OP himself. So there was no necessity to direct the DLO, North Tripura District, Kailashahar to dispose of the written request in issue. It has already been mentioned in the preceding paragraph that the information provided to the complainant in the form of copies of the documents were not duly certified to be true copies of the originals by the OP being the SPIO. Nevertheless, the steps presumed to have been taken by the OP administratively are out of misconception of the relevant provisions of the Act and there was no malafide intention to deny disclosure of the information sought for by the complainant. It has not escaped our notice that a long delay has been caused in disclosure of the information sought for by the complainant. No sort of explanation has been offered on behalf of the OP for causing such long delay in making disclosure of the information. However, it being the first case for the OP and since there was no malafide intention on the part of the OP to deny disclosure of the information, we are inclined to take a lenient view and do not consider it to be a fit case to warrant penalty under section 20(1) of the Act.

9. Before parting with the judgment and order, we are constrained to observe that the appointments of the stakeholders under the RTI Act, 2005 by the head of the public authority of the Labour Department have not been done in accordance with the requirement of sub sections (1) & (2) of section 5 and section 19(1) of the Act. From office records of this Commission, it reveals that in course of the review meeting held between this Commission and the representatives of the Labour Department on 15.07.2006, it was discussed and agreed upon that in the Labour Department there shall be three public authorities, namely, (1) the Labour Commissioner, Government of Tripura, (2) the Director, Employment Services & Manpower, Government of Tripura and (3) the Chief Inspector of Factories & Browsers, Government of Tripura. It was also recommended that the Labour Commissioner, Government of Tripura shall be the head of the public authority and the FAA in respect of the office of the Labour Commissioner, Government of Tripura. In that event any officer subordinate to the Labour Commissioner, Government of Tripura should have been designated as an SPIO for that office. But, the said recommendations were

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28/5/09

not acted upon by the head of the Labour Department. We are of the view that the recommendations made in the review meeting held on 15.07.2006 should be translated into action immediately by the head of the Labour Department as well as by the head of the public authority under intimation to this Commission.

**Decision:**

10. In fine, the complaint is allowed on contest with the following orders:-

- (i) OP Sri M.K.Nath, Labour Commissioner, Government of Tripura being the SPIO shall provide the information to the complainant against items - 1 & 2 as mentioned in the written request dated 30.08.2008 of the complainant afresh after certifying the documents to be the true copies of the originals within a period of 15 days from the date of passing of this judgment and order.
- (ii) OP Sri M.K.Nath, Labour Commissioner, Government of Tripura being the SPIO shall transfer the written request of the complainant in issue in respect of the part information as sought for under item - 3 as mentioned in the written request dated 30.08.2008 of the complainant to the Commissioner & Secretary to the Government of Tripura, Transport Department conveying the references to the case of the complainant within a period of 5 days from the date of passing of this judgment and order.
- (iii) The Commissioner & Secretary to the Government of Tripura, Labour Department is requested to identify and notify the public authorities under the Labour Department as recommended in the review meeting held on 15.07.2006 between this Commission and the representatives of the Department immediately. A copy of the report of the review meeting is being sent to the Commissioner & Secretary to the Government of Tripura, Labour Department for taking necessary action.
- (iv) After identification as the public authority, the head of the concerned public authority i.e. the Labour Commissioner shall immediately designate the SPIOs and the SAPIOs for his office including other subordinate offices under sub sections (1) and (2) of section 5 of the Act and also the First Appellate Authority under section 19(1) of the Act.

11. Let copy of this judgment and order be sent to the complainant and the OP. Also send a copy of this judgment and order to the Commissioner & Secretary to the Government of Tripura, Labour Department and the Commissioner & Secretary to the Government of Tripura, Transport Department.

12. Pronounced.

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

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

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Authenticated

  
(S.C.Saha)  
Secretary

Tripura Information Commission

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

Complaint No. TIC- 53 of 2008-09

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Dated, 08.05.2009

Copy to:-

- 1.Sri Haripada Deb, Driver (DRW), District Labour Office, Kailashahar, North Tripura (Complainant).
- 2.Sri M.K.Nath, Labour Commissioner, Government of Triura, Agartal (State Public Information Officer) – OP.
- 3.The Commissioner & Secretary to the Government of Tripura, Labour Department, Agartala. A copy of the report on the review meeting held on 15.07.2006 is enclosed.
- 4.The Commissioner & Secretary to the Government of Tripura, Transport Department, Agartala.

  
(S.C.Saha)  
Secretary

Tripura Information Commission