



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

Appeal No 20 of 2007-08.

Sri Alak Debnath  
S/O Sri Rati Ranjan Debnath  
Vill- Charipara( Police Para), P.O.- Charipara  
West Tripura.....Appellant

Vs.

1,The Inspector General of Prisons, Government of Tripura, Agartala (First Appellate Authority),  
2.Sri A.S.Jamatia, Superintendent of Central Jail, Agartala.(SPIO),  
.....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 himself.

For the Respondent No.1: Sri K.M.Das, Inspector General of Prisons,  
Government of Tripura, Agartala (FAA).

For the Respondent No.2: Sri A.S.Jamatia, Superintendent of Central Jail,  
Agartala (SPIO).

Date of lodging second appeal : 24.01.2008

Date of hearing of second appeal: 18.02.2008

Date of pronouncing judgment and order: 04.03.2008

JUDGMENT & ORDER

Facts:

1. This second appeal under section 19(3) of the RTI Act, 2005 (for short the Act) arises out of a memorandum of appeal dated 24.01.2008 of Sri Alak Debnath (here in after referred to as the appellant) received by this Commission on the same date.

2. The facts leading to this second appeal are that the appellant submitted a written request on 19.11.2007 to the State Public Information Officer (SPIO) in the Prisons Directorate, Government of Tripura seeking 4 items of information under the Act depositing the requisite amount of application



fee. Since the SPIO did not respond to the written request within the statutory period, the appellant preferred on 22.12.2007 a first appeal to the Inspector General of Prisons (IG, Prisons), Government of Tripura being the First Appellate Authority (FAA). But the FAA also failed to respond to the memorandum of first appeal till the date of lodging this second appeal although in the meantime, the statutory period for disposal of the first appeal elapsed. Hence, the appellant approached this Commission by way of this second appeal for appropriate redress to have access to the information sought for. The appellant furnished photocopies of the relevant papers along with the memorandum of appeal.

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

4. In response to the summons, Respondent 1- Sri K.M.Das, IG, Prisons, Government of Tripura, Agartala (FAA) and the Respondent 2- Sri A.S.Jamatia, Superintendent of Central Jail, Agartala (SPIO) appeared and submitted their respective written representations before this Commission. It is averred by the Respondent 2 that he had furnished part information to the appellant on 05.02.2008 and the rest information could not be provided due to non availability of the same. He has also submitted an additional written representation explaining the reason for not providing the information within the statutory period. The Respondent 1 Sri K.M.Das, IG, Prisons also submitted an additional written representation explaining circumstances for taking no step at all on the first appeal of the appellant.

5. The appellant also submitted a rejoinder to his memorandum of appeal on 18.02.2008 confirming that he received part information from the Respondent 2 against the third and fourth items of information as sought for vide his written request dated 19.11.2007, but insisted for having access to the first and second items of information as mentioned in his written request in issue, since the plea taken by the SPIO for their non disclosure is not tenable.

#### Issues for decision:

6. In consideration of the memorandum of appeal with rejoinder thereto and the written representations of the Respondents, the following issues require decision:-

- (i) Is the Respondent 2 being the SPIO under obligation to provide specific information against the first and second items as sought for by the appellant vide his written request dated 19.11.2007?
- (ii) Did the Respondents 1 and 2 violated the provisions of the Act in dealing with the written request seeking information and the first appeal to warrant any penalty?

#### Reasons for decision:

7. **Issue No.(i):** The appellant vide his written request dated 19.11.2007 sought for the following information under first and second items of information:-

↓  
De



- (i) Minutes/details of physical fitness i.e. height and chest as contemplated under Rule 7 of the RRs of general candidates.
- (ii) Minutes of the records of endurance test of each selected general candidate.

8. In response to the above requirements of the appellant, the contention of the Respondent 2 as intimated to the appellant vide his letter No.F.1(547)/IGP/07(P)/730 dated 02.02.2008 is as follows :-

"I would like to inform you that physical measurement of the candidates for the post of Warder (Male) has not been recorded. Candidates who have fulfill the requirement of physical measurement as per recruitment rules have been allowed to take part in the endurance test. Applicants who have qualified in the endurance test have been allowed to sit for the written examination. Therefore, it is not possible to furnish the physical measurement of candidates and records of endurance test."

9. We have carefully examined the written representations of the Respondent 2. Although in his first written representation dated 16.02.2008, the Respondent 2 pleaded that no mark was recorded by the recruitment board for physical test and the endurance test of the candidates appeared for such test and only a panel of candidates who were found to have qualified was prepared and sent to the appropriate authority for appearing in the written test, but in his subsequent additional written representation dated 16.02.2008, he has categorically expressed his readiness to provide the information, if directed by this Commission.

10. We are unable to accept the plea taken by the Respondent 2 that no record of the measurement of height and chest and the endurance test of the candidates was maintained by the recruitment board for deciding their suitability for recruitment. The primary objective of taking tests of any kind of any candidate is to ensure transparency and fairness in the process of selection. At least a panel prepared by the recruitment board after taking measurement of height and chest and the endurance test of the candidates must be in existence and be available with the recruitment board or the appointing authority. Thus, the initial plea of non availability of the above information as taken by the Respondent 2 does not stand. However, ultimately the Respondent 2 being the SPIO conceded existence of such panel within his custody and expressed his readiness to provide the information. So, we are to hold that the Respondent 2 being the SPIO is under obligation to provide the above two information to the appellant free of cost.

11. **Issue No.(ii):** Both the Respondents are found to have violated some vital provisions the Act. The Respondent 2 being the SPIO was under obligation to provide the information within 30 days of receipt of the written request. Records reveal that the Respondent 2 received the written request on 19.11.2007 and sent intimation to the appellant explaining his readiness to provide part information on 31.01.2008 i.e. after 74 days. The reason advanced by the Respondent 2 is that for collection of the information some time was required. But, in support, he provided no cogent and satisfactory evidence. So, the plea is not convincing enough to condone the delay.

↓  
cc



However, since it is the first case of default on the part of the Respondent 2, and he had no malafide intention to deny the information, we view it leniently with a direction that he should be more careful in future to deal with such written request seeking information under the Act strictly in adherence to the provisions of the Act.

12. The Respondent 1 being the FAA demonstrated his total ignorance of the relevant provisions of the Act. The Respondent 1 admitted that he took no step on the memorandum of first appeal of the appellant as it had some defects in contents. Being the FAA, he was under obligation to follow the principle of natural justice in deciding the first appeal. In the present case, the memorandum of first appeal dated 22.12.2007 was addressed to the Appellate Authority of the Prisons Directorate narrating the factum of making a written request seeking information and the non response of the SPIO to that request. Had there been any improper mention of facts constituting formal defects, the Respondent 1 being the FAA should have called and heard the appellant and got the defects rectified by the latter. But, the Respondent 1 failed to exercise his due diligence to take appropriate steps on the first appeal within the statutory period of 30 days as per provisions of section 19(1) of the Act and RTI Rules, 2005. Responsiveness in time is also an element of the principle of natural justice, which should be followed by a quasi-judicial authority. The Respondent 1 is the FAA as well as the head of the Public Authority. It is the duty and responsibility of the head of the Public Authority to pay proper attention to ensure effective implementation of the Act by several stakeholders including the FAA following strictly the provisions of the law. So, we are constrained to observe that he should make himself well aware of his responsibility to implement the provisions of the Act and simultaneously to administer justice to safeguard the right of a citizen to have access to the information guaranteed under the Act.

13. In view of the above discussions, although the Respondents 1 and 2 have failed to exercise due diligence in dealing with the written request seeking information and the first appeal, but for the reasons mentioned above, we are not inclined to impose any penalty at this stage.

#### Decisions:

14. In fine, the appeal is allowed on contest with the following orders:-

- (i) The Respondent 2 Sri A.S.Jamatia, Superintendent of Central Jail, Agartala being the SPIO shall provide to the appellant the specific information against the first and second items of information sought for by the latter vide his written request dated 19.11.2007 in the light of the discussion made in paragraph-10 above within a period of 10 days from the date of passing of this judgment and order free of cost.
- (ii) The Respondents 1 and 2 shall abide strictly by the directions given in paragraphs - 11 and 12 above respectively.

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

16. Pronounced



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

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

Authenticated.

↓  
4/3/08  
(S.C. Saha)  
Secretary

Tripura Information Commission

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

Appeal No - 20 of 2007-08/ 795-27

March 04, 2008

Copy to: -

1. Sri Alak Debnath, S/O Sri Rati Ranjan Debnath, Vill- Charipara ( Police Para), P.O.- Charipara, West Tripura (Appellant)
2. Sri K.M.Das, Inspector General of Prisons, Government of Tripura, Agartala (First Appellate Authority).
3. Sri A.S.Jamatia, Superintendent of Central Jail, Agartala.(SPIO).

↓  
4/3/08  
(S.C. Saha)  
Secretary

Tripura Information Commission