



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

Appeal No TIC-04 of 2008-09.

Sri Bijay Kr. Agarwal  
S/O Late Malchand Agarwal  
C/O Fortuna Agro Plantations Ltd.  
P.O.-Gobindapur, Kailashahar  
District- North Tripura.....Appellant

Vs.

1.Sri S. Talukdar, Chief Conservator of Forests ( Administration ), office of the PCCF, Government of Tripura, Agartala (First Appellate Authority).  
2.Sri D.K. Sharma, 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, Sri Nanda Gopal Nandy, Advocate appeared for the appellant duly authorized .

For the Respondent No.1: Sri D.K.Sharma, Conservator of Forests (W/L), office of the PCCF, Government of Tripura ( present First Appellate Authority and the former State Public Information Officer).

For the Respondent No.2: Sri D.K.Sharma, Conservator of Forests (W/L), office of the PCCF, Government of Tripura ( being the former State Public Information Officer ) alongwith Sri C.K.Das, Deputy Conservator of Forests (W/L), office of the PCCF, Government of Tripura and the present State Public Information Officer.

Date of lodging second appeal : 24.05.2008

Date of hearing of second appeal: 19.06.2008

Date of pronouncing judgment and order: 24.07.2008

JUDGMENT & ORDERFacts:

1. This second appeal under section 19(3) of the RTI Act, 2005 (for short the Act) arose out of a memorandum of second appeal dated 23.05.2008 of Sri Bijay Kr. Agarwal (here in after referred to as the appellant) received by this Commission on 24.05.2008. Facts leading to this second appeal are that the appellant submitted a written request on 27.11.2007 to the State Public Information Officer (SPIO) in the office of the PCCF, Government of Tripura, Agartala seeking certified copies of six items of correspondences including internal notes and inspection of respective file/register under the Act. Having no response from the concerned SPIO within the statutory period, the appellant preferred a memorandum of first appeal on 18.01.2008 to the First Appellate Authority (FAA) in the office of the PCCF, Government of Tripura, Agartala. Thereafter, the appellant received information from Sri D.K.Sharma, Conservator of Forests (W/L), being the SPIO in the office of the PCCF, Government of Tripura, but he was not allowed inspection of files. Sri S. Talukdar, Chief Conservator of Forests (Admn), office of the PCCF, Government of Tripura, Agartala being the FAA vide his letter No.F.6(632)/Vig/For-05/PartII/209-10 dated 02.05.2008 asked the appellant to indicate the file numbers and name of the registers, which he liked to inspect. Being dissatisfied with the said decision of the FAA, the appellant approached this Commission with this second appeal seeking a direction to the concerned SPIO for allowing him to inspect the files as sought for. The appellant furnished photocopies of all the relevant papers and documents along with the memorandum of second appeal.

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

3. In response to the summons, the Respondent 2 Sri D.K.Sharma, Conservator of Forests (W/L), office of the PCCF, Government of Tripura being the former SPIO and the present FAA appeared for himself and also for Sri S. Talukdar, Chief Conservator of Forests (Admn.), office of the PCCF, Government of Tripura, Agartala (former FAA). The Respondent 2 submitted two written representations separately being the present FAA and the former SPIO in the office of the PCCF, Government of Tripura. Sri C.K.Das, Deputy Conservator of Forests (W/L), office of the PCCF, Government of Tripura, Agartala and the present SPIO appeared alongwith Sri D.K.Sharma and submitted a written representation. It reveals from the written representations of the Respondent 2 that in the meantime, he himself and Sri C.K.Das, Deputy Conservator of Forests (W/L), office of the PCCF, Government of Tripura, Agartala have been designated as the FAA and the SPIO respectively in the office of the PCCF, Government of Tripura, Agartala.

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Issues for decision:

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

- (i) Is the appellant entitled for inspection of the files on the basis of the description given in his written request dated 27.11.2008?
- (ii) Did the Respondents 1 and 2 being the FAA and the SPIO respectively in the office of the PCCF, Government of Tripura, Agartala committed any breach of provisions of the Act in dealing with the first appeal and the written request seeking information in issue of the appellant?

Reasons for decision:

5. Issue No (i): The appellant in his memorandum of second appeal preferred before this Commission restricted his claim only for inspection of the files as mentioned in his written request dated 27.11.2007. The description of the files as depicted in the written request in issue is gathered as thus - 'inspection of the respective file in connection with extraction of trees from other side of IBB fencing at Murticherra Tea Estate, Kailashahar, North Tripura'. The appellant in the same written request also sought for certified copies of some correspondences and internal notings on the same subject matters.

6. The Respondent 2 being the SPIO, in response to the above written request, provided certified copies of the correspondences and the internal notes, but remained silent about taking any decision on inspection of the files. The Respondent 1 being the FAA did not respond to the memorandum of first appeal dated 18.01.2008 of the appellant. However, in response to the reminder letters dated 17.04.2008 and 24.04.2008 of the appellant, the Respondent 1 vide his letter No.F.19(632)/Vig/For-05/PartIII/209-10 dated 02.05.2008 asked the appellant to indicate the file numbers/name of the registers, which he liked to inspect. The appellant took exception to the above requirement of the Respondent 1 on the ground that the required file numbers were very much known to the FAA since, the certified copies of the correspondences and the internal notes were supplied to him from those files.

7. Ostensibly, the appellant may have some justification in his argument, but section 6(1) of the Act requires that the particulars of the information sought for should be specific in order to avoid any difficulty and also to lessen the job of the concerned SPIO to take an effective decision in the matter. Section 5(3) of the Act provides that the SPIO shall provide reasonable assistance to the persons seeking information in providing the information. In the present case the file numbers sought to be inspected were not specifically indicated. So, the appellant should have specified the particulars of the files sought to be inspected at the time of submitting written request or immediately after receipt of the request letter dated 02.05.2008 of the FAA. It was also imperative for the Respondent 2 to get the particulars of the files sought to be inspected clarified in the written request by the appellant himself at the initial stage of submission of

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the written request in issue rendering necessary assistance for the purpose to the appellant. However, the facts remains that basing upon the particulars of the files mentioned in the written request in issue, it was rather difficult for the Respondent 2 to allow inspection.

8. According to the spirit of the Act, a healthy relation between the information giver and the information seeker in the courses of working with the dispensation of natural justice to enjoy the right to have access to the information held by the public authority by a citizen under the Act is expected. So, mutual cooperation from both the sides is an essential requirement to have efficient performance.

9. Keeping in view of the facts and circumstances discussed here in above, we are of the view that there were latches on the part of both the sides for not taking any decision by the concerned SPIO in the matter of allowing access to the files in the form of inspection as sought for by the appellant. According to the appellant himself, he received certified copies of all the correspondences and internal notes, wherein the required file numbers were available. So, he should have submitted an addendum to his written request specifying the file numbers sought to be inspected by him as asked for by the Respondent 1 being the FAA, because he is the best person to choose the specific files with contents for inspection. We, therefore, hold that the appellant is required to remove the inadequacies in the description of the file numbers sought to be inspected by submitting an addendum to his written request dated 27.11.2007 to the present SPIO in the office of the PCCF, Government of Tripura within a period of 15 days from the date of passing of this judgment and order and upon receipt of such addendum, the present SPIO shall dispose of the written request afresh to the extent of inspection of files only strictly following the provisions of the Act and the Tripura Right to Information Rules, 2008 ( for short the Rules) within a period of 15 days from the date of receipt of the addendum from the appellant. If the appellant is dissatisfied with the decision of the SPIO about inspection of files, he shall have the right to prefer appeal under the Act. The first issue is decided accordingly.

10. Issue No. (ii): The appellant did not make any allegation of committing breach of the provisions of the Act by the Respondents 1 and 2 being the FAA and the SPIO respectively. But, for future guidance of the FAA and the SPIO, we consider it expedient to put it on record the breaches of the provisions of the Act committed by them as noticed in the present case.

11. The written request in issue accompanied by application fee was submitted to the Respondent 2 by the appellant on 27.11.2007, but it was shown to have been received by the former on 03.01.2008 i.e. after 37 days of submission. Again, intimation for providing part information was sent on 29.02.2008 by the Respondent 2 after about 57 days from 03.01.2008 causing delay by 27 days. In the written request in issue of the appellant, there was a

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request for inspection of the files / registers along with furnishing certified copies of some correspondences and internal notes. But, the Respondent 2 being the SPIO did not take any decision on the request for inspection of files at all. The Respondent 2 being the SPIO offered no sort of explanation in his written representation for the above breaches of the provisions of the Act. The SPIO is, therefore, directed to be more circumspect in future in dealing with the written request for information under the Act adhering strictly to the provisions of the Act and the Rules.

12. The appellant preferred his memorandum of first appeal on 18.01.2008 to the Respondent 1 being the FAA followed by reminders on 17.04.2008 and 24.04.2008. In response, excepting sending the letter dated 02.05.2008 to the appellant asking him to indicate the file numbers sought to be inspected, the Respondent 1 took no other steps for disposal of the first appeal in issue at all. It was incumbent upon the Respondent 1 being the FAA to dispose of the memorandum of first appeal within 30 days, but he refrained from taking any final decision on the said first appeal, which is contrary to the provisions of section 19(6) of the Act. Although, in the meantime, the Respondent 1 has discontinued to be the FAA, but the present FAA should be very careful in the matter of disposal of the first appeal strictly adhering to the provisions of the Act and the Rules in future.

Decision:

13. In fine, the appeal is allowed on contest with the orders that within a period of 15 days from the date of passing of this judgment and order, the appellant shall submit an addendum to his written request dated 27.11.2007 removing the inadequacies in the description of the file numbers sought to be inspected by him to Sri C.K.Das, Deputy Conservator of Forests (W/L) and the present SPIO in the office of the PCCF, Government of Tripura, Agartala and the latter shall dispose of the written request afresh to the extent of inspection of files only strictly following the relevant provisions of the Act and Rules within a period of 15 days from the date of receipt of such addendum from the appellant.

14. 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, Agartala being the head of the Public Authority and Sri C.K.Das, Deputy Conservator of Forests (W/L) and the SPIO in the office of the PCCF, Government of Tripura, Agartala.

15. Pronounced.

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

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

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Authenticated

24/7/08  
(S.C.Saha)  
Secretary

Tripura Information Commission

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

Appeal No TIC- 04 of 2008-09 / 902-906

Dated, 24.07.2008

Copy to:-

1. Sri Bijay Kr. Agarwal, S/O Late Malchand Agarwal, C/O Fortuna Agro Plantations Ltd., P.O.- Gobindapur, Kailashahar, North Tripura (Appellant).
2. Sri S. Talukdar, Chief Conservator of Forests [ Administration ], office of the PCCF, Government of Tripura, Agartala [ former First Appellate Authority].
3. Sri D.K. Sharma, Conservator of Forests (W/L), office of the PCCF, Government of Tripura, Agartala ( former State Public Information Officer).
4. Sri C.K.Das, Deputy Conservator of Forests,(W/L), office of the PCCF, Government of Tripura, Agartala ( present State Public Information Officer).
5. The Principal Chief Conservator of Forests, Government of Tripura, Agartala (Head of the Public Authority).

24/7/08  
(S.C.Saha)  
Secretary

Tripura Information Commission