



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

Appeal No TIC- 39 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 : 24.01.2009

Date of hearing of second appeal: 05.02.2009

Date of pronouncing judgment and order: 26.02.2009

**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 24.01.2009 of Sri Bhajan Ch.



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 03.08.2008 to the State Public Information Officer (SPIO) in the office of the PCCF, Government of Tripura, Agartala seeking as many as 13 items of information under the Act. In response, the concerned SPIO did not provide the information to the appellant within the statutory period. Therefore, the appellant preferred a first appeal on 08.09.2008 before the First Appellate Authority (FAA) in the office of the PCCF, Government of Tripura, Agartala. Sri C.M.Deb Barma, Chief Conservator of Forests (CCF), HQ, office of the PCCF, Government of Tripura being the FAA decided the first appeal on 06.11.2008 by passing a written judgment and order. The FAA partially allowed the first appeal and directed the concerned SPIO to provide the information after examining the nature of comments as asked for by the appellant. Being dissatisfied with the decision of the FAA as mentioned above, the appellant preferred this second appeal before this Commission agitating that the FAA acted beyond his jurisdiction and did not consider items 4, 5 & 6 as mentioned in his written request dated 03.08.2008. It is also agitated by the appellant that despite the direction of the FAA, the concerned SPIO did not provide the information at all. Hence, the appellant approached this Commission seeking appropriate redress to have access to the information sought for vide his written request dated 03.08.2008 and also for taking further steps as this Commission deems fit and proper. Along with the memorandum of second appeal, the appellant furnished photocopies of all the relevant papers.

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

4. In response to the summons, the Respondent 1 Sri C.M.Deb Barma, CCF, HQ, office of the PCCF, Government of Tripura and the FAA and the 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 their respective written representations.

5. Heard oral submissions made by the appellant and the Respondents 1 and 2. Also perused the memorandum of second appeal, the written request seeking information by the appellant and the order dated 06.11.2008 passed by the Respondent 1 being the FAA.

**Issues for decision:**

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

- (i) Is the decision dated 06.11.2008 of the Respondent 1 being the FAA is maintainable?
- (ii) To what information the appellant is entitled and the Respondent 2 being the SPIO is under obligation to provide such information?

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- (iii) Has the Respondent 2 being the SPIO committed contravention of the provisions of the Act to warrant penalty under section 20(1) of the Act?

**Reasons for decision:**

7. Issue Nos. (i) & (ii): Both the issues are taken together for discussion for the sake of convenience. At the outset, the particulars of the information sought for by the appellant under his written request dated 03.08.2008 are required to be examined. The appellant described vivid particulars including the backdrop of the information in his written request. The particulars of the information as narrated by the appellant are quoted below instead of summarizing for correct appraisal:

" I have the honour to state that I am in need of the following information under RTI Act, 2005.

That on 30. 05.2005 the FAA( Sri D.K.Sharma, CF,W.L.) in connection with Appeal No.9/08-09 supplied me the photocopy of note sheets bearing file No.21(16)/RTI/For-07/ containing 6(six) sheets are annexed herewith as Annexure-1 series.

In the above note sheets it is sent that the I/c. Vigilance Section, O/o the PCCF(Tripura) stated & written in the note sheets not only for miss-guiding the higher authority, by suppressing the actual real facts of affairs but also acted beyond his jurisdiction & also written some objectionable manner which is outside the latest judgments & orders of various court cases. Some instance of I/c, Vigilance Section, O/o the PCCF (Tripura ) written in the note sheets as shown below:-

" Disciplinary proceeding was drawn up against Sri Bhajan Ch. Debnath for tempering this original select list which was exhibited as "H" and other related documents. According to finding of I/A. Sri Bhajan Ch. Debnath was found guilty of the charges and a penalty was imposed against him."

"As it also evident from the aforesaid judgment placed in the file that exhibit documents "N" is the merit list of Forester in the year 1993. The names of penal candidate were come in the list of original select list which exhibited documents "H" for engagement of Stipendiary apprentice and subsequently appointed as LDC."

Court did not pass any direction about which documents is the original select list."

The said plaintiff Sri Bhajan Ch. Debnath had filed a case in the court of sub-Judge, West Tripura in case No. 121 of 1981 claiming he is senior to the defendant No. 2 to 17 on the basis of said tempered and fraudulent documents."

(i) Is the information of note sheets as above are correct?

(ii) If correct, the copy of penalty order against me ( Sri Bhajan Ch. Debnath) may kindly be supplied.

(iii) I would like to say that falls information was given in the note sheet by the dealing clerk that an order was passed imposing penalty against me. Is it correct?

(iv) I want to say that Exhibit-H is not the original select list and the Hon'ble Sub-Judge in Case No.121/81 clearly admitted & order that Exhibit-H is not the original select list. Is it correct?

*(Handwritten signature)*



- (v) Thus the version that Exhibit-H is the original select list as stated by the I/c, Vigilance Section, O/o the PCCF (Tripura) is the interference and as well as violation of the court order dt. 21.09.87 in connection with case NO. 121 T.S. of 1981, is it correct?
- (vi) What action has been taken against I/c, Vigilance Section, O/o the PCCF (Tripura) for giving some falls notes willfully against me which also beyond the judgments and order of various court cases. The copy of the action report may kindly be supplied.
- (vii) Is there any interview held for the post of LDC during 1973? If yes, kindly arrange to supply the copies of the interview cards.
- (viii) I want to say we called for interview for the post of Forester, later on appointed to the post of LDC. Is it correct?
- (ix) I would like to say that Exhibit-N is the original select merit list and the Hon'ble High Court also admitted it in his judgment and order in SA 19/88 and SA 21/88 and the Sub-Judge in his judgment on 21.09.87 in case No.121/81 passed an order that Exhibit-H is not the original select list. Thus the written version of the I/c, Vigilance Section, O/o the PCCF (Tripura) in the note sheet that Court did not pass any direction about which is the original select list is totally falls and contradictory of the judgment and also violation the court judgment and order as above- is it correct?
- (x) The dealing clerks' written note that Exhibit-H is the original select list and the plaintiff Sri Bhajan Ch. Debnath relied on such Exhibit-H is totally falls. I, Sri Bhajan Ch. Debnath relied on the merit list mark as Exhibit-N which is also admitted in the judgment and order in SA 21/88 and SA19/88, Is it correct?
- (xi) As per judgment and order dt. 20.11.92 in SA 19/88 and SA 21/88 that Sri Debaranjan Talapatra & others were illegally appointed. Is it correct?

2. As per judgment and order 01.06.88 in connection with title appeal No. 72/1987 and the photocopy of order extract in 3(three) sheets are annexed herewith and marked as Annexure-2 as under.

"It has been totally contended of the learned Government pleader that the plaintiff was dishonest and manipulated, interpolated and fabricated the list by taking advantage of his presence in the Head Office. To me it seems that it only remains a contention, which was not proved. DW-1 Sri Jyotsnamoy Talapatra, an employee of Forest Department admitted in cross examination that the writing exhibit-H are partly of one Ranjit Dey and partly of Conservator of Forests, which is a matter of serious concern in the present case."

- (i) Is there any action or disciplinary proceeding drawn up against Sri Ranjit Dey, the then I/c, Establishment Section and CF who written something in exhibit-H. If so the copy of charge sheets/order may kindly be supplied to me and if not the reason behind it may kindly be confirmed to me.
- (ii) Is it clear that I/c, Vigilance Section, O/o the PCCF (Tripura) willfully misguided and blamed against me by suppressing actual position of records in the note sheets. What action has been taken against I/c, Vigilance Section, O/o the PCCF (Tripura). The copy of the action report may kindly be supplied to me."

8. We have carefully examined the particulars of the information sought for by the appellant. It is to be kept in mind that the stakeholders under the Act namely, this Commission, the FAAs, the SPIOs are not sitting in adjudicating the correctness of the action of the public authority in course of dealing with the

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written requests seeking information, disposal of the first appeals and second appeals. An SPIO is under obligation only to provide those information, which are in existence in the custody of the concerned public authority and not exempted under section 8 and 9 of the Act. He/She is not under obligation to answer the request made in the form of leading questions or interrogatories. In the instant case, among the 13 items of information sought for by the appellant, 12 items were in the nature of such type of queries. Only in one case, he sought for supply of copy of an order, which is supposed to be in existence in the custody of the concerned public authority. In our view, out of all the information sought for, only information in respect of the following queries as summarized by this Commission deserve consideration for disclosure by the concerned SPIO:-



'Whether or not the note of the dealing assistant placed in File No.F.21(16)/RTI/For-07/ stating that the inquiring authority found Sri Bhajan Ch. Debnath guilty of charges and penalty was imposed upon him was correct. If so, a copy of the penalty order is to be provided.'

9. Since there is existence of such a note in the file maintained by the concerned public authority, the SPIO is under obligation to answer the queries and if the answer is in the affirmative, a copy of the penalty order should be supplied to the appellant and if the answer is in the negative, such factual position should also be intimated to the appellant. Disclosure of such information is not barred by the Act.

10. It reveals from the written representation of the Respondent 1 (FAA) and his order dated 06.11.2008 passed in Appeal No-16 of 2008-09 (in his file) that he directed the Respondent 2 being the SPIO to provide the information as mentioned in items (i), (ii), (iii) & (vii) of the written request in issue of the appellant by further examining the nature of comments asked for. This is an evasive and incomplete order since the matter of taking decision about disclosure of the information is left with the concerned SPIO who has been charged for deemed refusal. So, we are of the view that the order passed by the FAA is not a good order for lack of not containing specific direction to the concerned SPIO either to provide the information or to reject the written request for disclosure of some information showing justification therefor. The impugned decisions of the Respondent 1 being the FAA are, therefore, liable to be set aside.

11. The Respondent 2 being the SPIO offered his own reasons for not providing the information that the appellant intentionally imposing the responsibility on the shoulder of the SPIO asking for his comments, interpretation, opinion, approval and disapproval to the Court's judgment and office order. Moreover, the particulars of the information were not specific, which stood in the way of making disclosure of any specific information. We cannot brush aside the arguments placed by the Respondent 2 being the SPIO in support of non disclosure of the information sought for by the appellant.



12. Apart from the information discussed in paragraph - 8 above, in respect of the remaining information sought for by the appellant under his written request in issue, we are to observe that they do not constitute the term 'information' as defined under section 2(f) of the Act for the following reasons:-

- (i) The particulars of the information were in the form of leading questions.
- (ii) The queries made were in the form of interrogatories asking the SPIO either to admit or deny the answers offered by the requester himself.
- (iii) The particulars of the information are in the nature of inviting interpretation and opinion on the judgment delivered by the Courts of law.
- (iv) Some of the information were of more than 35 years old and hypothetical in nature.
- (v) The appellant offered his own arguments on the merit of the action/steps taken by the public authority in the particulars of the information sought for by him.

13. Keeping in view, the above infirmities in the particulars of the information as described by the appellant in his written request in issue, we do not find any reason to disagree with the views taken by the Respondent 2 being the SPIO. So, the appellant is not entitled to have access to the information sought for by him under the remaining items of information except the information mentioned in paragraph - 8 above.

14. Issue No.(iii): It is admitted fact that the Respondent 2 being the SPIO did not respond to the written request seeking information by the appellant within the statutory period. Nor he complied with the direction given by the FAA in his order dated 06.11.2008 in Appeal No-16 of 2008-09 in his file. The Respondent 1 being the FAA directed the Respondent 2 being the SPIO to comply former's order dated 06.11.2008 within 30 days. The Respondent 2 being the SPIO in his written representation advanced no reason for not complying with the above order of the FAA. He submitted that the particulars of the information described in the written request in issue of the appellant were not specific and, therefore, it was not possible to supply the information as directed by the FAA. Prior to that on 8/9.09.2008, the appellant was asked in writing to send his requirement specifically for providing the information, but the appellant did not submit his specific questions still the date of hearing. We are quite in agreement with the submission placed by the Respondent 2. Considering all the above facts and the circumstances, we are of the view that there were adequate reasons for the Respondent 2 not to provide the information relying on the written request in issue. However, the Respondent 2 being the SPIO should have sought for such clarification for mentioning particulars of the information in specific term well ahead of 8/9.09.2008 since the written request in issue was submitted on 03.08.2008. In this regard, the Respondent 2 orally submitted in course of hearing that he is overburdened with some other business of his office, which stands in the way of giving full attention to the written request seeking information within the time. Despite repeated requests to the concerned competent authority for

making necessary arrangements enabling him to spare more time in the RTI matters, it was not considered till date. As a result, some delay is generally caused in giving prompt response to the written request seeking information under the Act according to the spirit of the Act including the present one. Considering all the aspects as narrated by the Respondent 2 being the SPIO in his written representation and oral submission, we are inclined to take a lenient view with the caution that the Respondent 2 being the SPIO should be more serious and careful to dispose of the written request seeking information under the Act within the statutory period as prescribed by the Act. Thus, we find no reasonable ground to invoke the provisions of section 20 of the Act to penalize the Respondent 2 being the SPIO.



15. Before parting with the judgment and order, we are constrained to request the PCCF, Government of Tripura being the head of the Public Authority of the Forest Department again to appreciate the difficulties of the Respondent 2 being the SPIO to dispose of the written request in issue within the statutory period and take appropriate steps immediately.

**Decision:**

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

- (i) The decision dated 06.11.2008 of the Respondent 1 being the FAA passed in Appeal No-16 of 2008-09 in his file is hereby set aside.
- (ii) The Respondent 2 being the SPIO is directed to provide the information to the queries made by the appellant in respect of the particulars of the information as mentioned in paragraph - 8 of this judgment and order within a period of 15 days from the date of passing of this judgment and order free of charge since the SPIO could not provide the information to the appellant within the statutory period as prescribed by the Act.

17. 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.

18. Pronounced.

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

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



Authenticated

  
(S.C.Saha)  
Secretary

Tripura Information Commission

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

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Appeal No- 39 of 2008-09 / 112-15

Dated, 26.02.2009

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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).

  
(S.C.Saha)  
Secretary

Tripura Information Commission