



In the Tripura Information Commission
P. N. Complex: Gokhabasti, Agartala

Appeal No 19 of 2007-08.

Sri Bijay Kumar Agarwal
P.O.- Gobindapur
Kailashahar, North Tripura.....Appellant

Vs.

1. Sri C.M. Debbarma, Conservator of Forests, Southern Circle, Udaipur, South Tripura (First Appellate Authority).

2. Sri A. Dey, IFS, Divisional Forest Officer, Udaipur Forest Division, Udaipur, South Tripura (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. Daschudhuri
State Information Commissioner

For the Appellant: Sri N.G. Nandy, Advocate.

For the Respondent No.1: Sri C.M. Debbarma, Conservator of Forests, Southern Circle, Udaipur, South Tripura (FAA).

For the Respondent No.2: Sri A. Dey, Divisional Forest Officer, Udaipur Forest Division, Udaipur, South Tripura (SPIO).

Date of lodging second appeal : 11.01.2008

Date of hearing of second appeal: 08.02.2008

Date of pronouncing judgment and order: 05.03.2008

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 07.01.2008 of Sri Bijay Kumar Agarwal (here in after referred to as the appellant) received by this Commission on 11.01.2008.



2. The facts leading to this second appeal are that the appellant made a written request on 03.07.2007 to the State Public Information Officer (SPIO) in the office of the Divisional Forest Officer (DFO), Udaipur Forest Division, Udaipur depositing application fee of Rs. 10/- and advance additional fee of Rs. 1,000/- seeking four items of information under the Act. Sri A. Dey, IFS, DFO, Udaipur Forest Division, Udaipur being the SPIO responded to the said written request vide his letter No.F.4-13/RTI/UD-2005/548(A) dated 17.07.2007 intimating the appellant that the information in respect of the above 4 items of information to be treated as 'NIL'. Being aggrieved with the above decision of the SPIO, the appellant preferred a first appeal on 06.11.2007 to the First Appellate Authority (FAA) in the office of the Conservator of Forests (CF), Southern Circle, Udaipur. The FAA did not dispose of the first appeal till the date of lodging the present memorandum of appeal although the statutory period had already elapsed. Hence, this second appeal for appropriate relief. The appellant furnished photocopies of the relevant papers and the documents 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 C.M. Debbarma, CF, Southern Circle, Udaipur (FAA) and the Respondent 2- Sri A. Dey, IFS, DFO, Udaipur Forest Division, Udaipur (SPIO) appeared and submitted their respective written representations before this Commission.

Issues for decision:

5. In consideration of the memorandum of appeal with enclosures and the written representations of the Respondents, the following issues are required to be decided:-

- (i) Did the Respondent 2 being the SPIO provided adequate information to the appellant vide former's intimation letter No. No.F.4-13/RTI/UD-2005/548(A) dated 17.07.2007 in response to latter's written request dated 03.07.2007?
- (ii) Did the Respondent 1 being the FAA committed any irregularity in dealing with the first appeal preferred by the appellant on 06.11.2008?

Reasons for decision:

6. Issue No.(i): The appellant under his written request dated 03.07.2007 sought for the following information:-

- i) List of individual sawn timber pieces with size of each piece in various Forest Depo/Range/Beat of Udaipur Forest Division which was sold to Fortuna Agro

tes



Plantations Ltd. under Tender number F.25-34/UD-04/Tender/20,247-20,300 dated 26.11.04 – Total quantity sold 682 cum Sawn Timber.

- ii) List of individual timber logs with size of each pieces in various Forest Depo/Range/Beat of Udaipur Forest Division and sold to Fortuna Greenfields Pvt. Ltd. under Tender number F. 25-34/UD-04/Tender/20,247-20,300 dated 26.11.04 – Total quantity sold 1287 cum Round Timber.
- iii) List of individual timber logs/sawn timber sold by the office of Divisional Forest Office/Range Office out of timber purchased by M/S Fortuna Agro Plantations Ltd. and or Fortuna Greenfields Pvt. Ltd. as in point 1 and 2 above with rate at which each piece/total quantity sold to buyer other than Fortuna Agro Plantations Ltd and or Fortuna Greenfields Pvt. Ltd with name of buyer.
- iv) Kindly also inform whether the Timber sold out of 682 or 1287 cum as in point 1 and 2 above is out of Timber measured by the representative of Fortuna Agro Plantations Ltd. and or Fortuna Greenfields Pvt. Ltd. If yes, kindly advice, how much quantity sold from Timber measured.

7. In response to the above written request, the Respondent 2 being the SPIO provided the following information to the appellant in seriatim under his intimation letter No. F.4-13/RTI/UD-2005/548(A) dated 17.07.2007: -

- i) No timber can be said to have been sold to Fortuna Agro Plantation Private Limited, as the process of sale was started with acceptance of tender by the department; but the produce was not lifted by the said Agency after depositing the royalty. The information may be treated as "Nil".
- ii) No timber ca be said to have been sold in favour of Fortuna Green Fields Private Limited, as the process of sale was started with acceptance of tender by the department; but the produce was not lifted by the said Agency after depositing the royalty. The information may be treated as "Nil".
- iii) The question does not arise as timber sold to one party cannot again be sold to another. The information may be treated as "Nil".
- iv) The quantity of timber measured by the representative of Fortuna Agro Plantation Private Limited and for Fortuna Green Fields Private Limited is not precisely known to us and hence this information may be treated as Nil.

8. We have carefully gone through the description of the information sought for and the information provided by the SPIO and we are of the view that the information provided by the SPIO are quite adequate since the processes of sale of timber logs and sawn timber were not completed by payment of royalty and delivery of possession of the produces although there might have been acceptance of tender. We, therefore, hold that the information provided by the Respondent 2 being the SPIO were adequate and this second appeal has no merit, which is liable to be dismissed.

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9. Issue No.(ii): The first appeal was lodged by the appellant on 06.11.2007 against the decision dated 17.07.2007 of the SPIO i.e. after, 111 days. The period of limitation for filing first appeal is 30 days from the date of decision of the SPIO, which is relaxable in exceptional cases showing reasonable ground therefor to the satisfaction of the FAA as per provisions of the proviso to section 19(1) of the Act. But, the appellant did not make any request for condonation of delay in preferring the appeal along with the memorandum of first appeal. So, the first appeal in issue of the appellant was liable to be not admitted by the Respondent 1 being the FAA. Instead, the Respondent 1 fixed up a date for hearing on the appeal issuing notices upon the concerned parties, which deemed the first appeal to have been admitted by the FAA condoning the delay. In that case, the Respondent 1 being the FAA was under obligation to decide the first appeal within the period of 30 days and in appropriate situation within 45 days showing reasons therefor as per provisions of sub section (6) of section 19 of the Act. But, the Respondent 1 failed to do so within the statutory period following the principle of natural justice, which is no doubt a breach of the relevant provisions of law on his part. He is, therefore, required to be more diligent in future in dealing with such first appeal under section 19(1) of the Act. This second issue is decided accordingly.

Decisions

10. In fine, the appeal is disallowed on contest with the observations that the Respondent 1 Sri C.M. Debbarma, CF, Southern Circle, Udaipur (FAA) should be more diligent in future in dealing with such first appeal under section 19(1) of the Act.

11. 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 Principal Chief Conservator of Forests, Government of Tripura being the head of the Public Authority.

12. Pronounced

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

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

Authenticated.

25/3/08
 (S.C. Saha)
 Secretary

Tripura Information Commission



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

Appeal No - 19 of 2007-08/ 235-38

March 05, 2008

Copy to: -

1. Sri Bijay Kumar Agarwal, P.O.- Gobindapur, Kailashahar, North Tripura (Appellant).
2. Sri C.M. Debbarma, Conservator of Forests, Southern Circle, Udaipura, South Tripura (First Appellate Authority).
3. Sri A. Dey, IFS, Divisional Forest Officer, Udaipur Forest Division, Udaipur, South Tripura (SPIO).
4. The Principal Chief Conservator of Forests, Government of Tripura, Agartala, (Head of the Public Authority).

25/3/08
 (S.C. Saha)
 Secretary

Tripura Information Commission