



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

Complaint No. TIC – 44 of 2009-10

Ex-Hav. Megh Singh
No- 791190283
Vill- Mollahera
P.O.- Maruti
Dist- Gurgaon, Haryana
Pin No- 122015.....Complainant

Vs

Dr. Debajyoti Kar, Medical Superintendent, Agartala Govt. Medical College & GBP Hospital, Agartala (State Public Information Officer).
.....Opposite Party

ORDER
Dated, 17.03.2010

The complainant Ex-Hav. Megh Singh is absent without any step despite the notice sent to him in advance on 01.02.2010.

2. The Opposite Party (OP) Dr. Debajyoti Kar, Medical Superintendent, Agartala Govt. Medical College (AGMC) & GBP Hospital and the State Public Information Officer (SPIO) is absent by a petition dated 15.03.2010 submitting that he has already resigned and left the job on 12.03.2010 and, therefore, sought for exemption from personal appearance before this Commission on 17.03.2010. The written representation dated 12.03.2010 of the OP received by this Commission on 15.03.2010 is put up today and attached to records. The Health & Family Welfare Department, Government of Tripura vide its notification No.F. 1(828)-MS/GS/2005 dated 16.03.2010 has designated Dr. Himadri Bhusan Das, In-charge Medical Superintendent, AGMC & GBP Hospital as the SPIO for the AGMC & GBP Hospital in place of Dr. Debajyoti Kar who has already been released on 12.03.2010.

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3. Brief facts leading to this complaint are that the complainant made a written request on 07.12.2009 to the Medical Superintendent, AGMC & GBP Hospital, Agartala being the SPIO accompanied by the requisite amount of application fee in the form of Indian Postal Order seeking certain items of information under the RTI Act, 2005 (for short the Act). But, till the date of lodging this complaint, the concerned SPIO did neither respond to the written request in issue nor furnished any information to the complainant. The complainant has, therefore, approached this Commission with this complaint seeking direction to have access to the information sought for by him and demanded for penal action as well as disciplinary action against the erring SPIO under sub sections (1) & (2) respectively of section 20 of the Act. The complainant also demanded to direct the concerned public authority for payment of compensation for the loss and other detriment suffered by him. Along with the written complaint, the complainant has furnished photocopies of the relevant documents.

4. The complainant vide his written request dated 07.12.2009 submitted to the Medical Superintendent and the SPIO of AGMC & GBP Hospital had sought for the following information:-

"I, Hav. Megh Singh No-791190283 have the honour to inform you that in the year 1994 my Bn.(37) was deputed in Agartala (Tripura), unfortunately I became the victim of T.B. there and I started my treatment in GBP Hospital and IGM Hospital at Agartala from 1994. Sir, unfortunately I have lost all my documents of the above mentioned treatment which I needed badly for the official process. Some details that I can recollect in my memory are:-

- i) I had taken the only slip in the O.P.D. in G.B.Hospital in the first week of March-1994.
- ii) In the other days of March the Blood test, X-ray etc. were done and some medicines were given to me.
- iii) I was operated in the first week of April-1994 in the same G.B. Hospital.
- iv) After operation some (sample flesh) were sent for test in the laboratory situated at the 2nd floor of the Hospital. I require that report also.
- v) I was there upto 15th April in the meantime the dressing and required medicines were given to me.

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vi) After that I had been sent for 2 months medical leave by the doctors. I also require the information regarding details of the days and date of medical leave.

vii) After the return from medical leave during Nov, 1994 the doctors of G.B.Hospital referred me to I.G.M., T.B. Hospital from where the medicines were provided to me.

viii) Earlier, I have sent a number of E-mails to you regarding this, but till date I did not get any information about it. Therefore it is my earnest request to you to be kind enough and send me all the details of my treatment as earliest possible."

5. The written reply to the show-cause notice and the summons issued by this Commission on 01.02.2010 submitted by the OP being the former SPIO vide his No.F.2(259)-Med/Gen/06 dated 12.03.2010 runs as follows:-

" To
The Secretary
Tripura Information Commission
Pandit Nehru Complex
Gorkhabasti, Agartala.

Ref:- Show Cause Notice No.TIC.44/2009-10/66 dated 01-02-2010.

Sir,

In reference to the above I am to submit the following for your kind perusal & sympathetic consideration:

- 1) I have received the above notice on 02-02-2010 at 5 P.M. wherefrom for the first time I came to know about the letter of Ex-Hav. Megh Singh seeking information under the RTI Act.
- 2) On enquiry it was revealed that the letter in question reached our office on 18-12-2009 but unfortunately it was not marked to the person/Unit who deals with RTI matters in the office & escaped notice causing delay in reply.
- 3) The persons responsible for these have been asked to show cause of their failure vide Memo No.F.2(259)-Med/Gen/06 dated 06-02-2010 and their replies are enclosed herewith.
- 4) The undersigned learnt about the letter on 02-02-2010 and the reply of the letter of Megh Singh was dispatched on 06-02-2010.
- 5) Vide memorandum No.F.2(12)-MRS/GBPH/2005 dated 18-09-2005 (copy enclosed) we are keeping general records only up to 10 yrs. period except for Medico Legal Cases.

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- 6) The treatment record sought was for the year 1994 (about 15 yrs. Back), which was not available with us. It was not a Medico Legal Case.
- 7) However, learning from the application that the applicant received treatment at the TB & Chest Clinic, IGM Hospital, Agartala as well, the undersigned personally visited the centre & collected some treatment documents related to him.
- 8) These were sent to the applicant on 06-02-2010 in the reply (copy enclosed).
- 9) There is no malafide intention on the part of the SPIO, AGMC& GBPH.

Now, the situation which resulted in delay in the reply of the letter in question is narrated and submitted before the commission for kind consideration.

It is, therefore, prayed that the instant complaint be disposed of as infructious in view of the communication made to the complainant on 06-02-2010 & no penal action be taken.

Sd/-

(Dr. D. Kar)

Medical Superintendent

GBP Hospital, Agartala

&

State Public Information Officer

AGMC&GBP hospital, Agartala"

Encl: 9(nine) sheets.

6. While appreciating the fact that the OP came to know about the written request of the complainant in issue only after receipt of the show-cause notice and the summons issued by this Commission, I am constrained to observe that it was a total failure on the part of the SPIO to develop an appropriate mechanism in his office to receive, process and place the written request for information before the SPIO in compliance with the procedure prescribed by the Act and the Tripura Right to Information Rules, 2008 (for short the Rules). Dr. Himadri Bhusan Das, In-charge Medical Superintendent and the present SPIO of the AGMC & GBP Hospital is, therefore, directed to take immediate steps for having a proper mechanism in his office to receive and process the written requests for information strictly following the provisions of the Act and the Rules. It appears from the written representation of the OP that the written request dated 07.12.2009 of the complainant was received in the office of the Medical Superintendent, AGMC & GBP Hospital

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on 18.12.2009, which was first seen by Dr. Yudhistir Das Deputy Medical Superintendent of GBP Hospital on 19.12.2009 at Dak stage and wrongly marked it to the Medical Record Officer (MRO) of AGMC & GBP Hospital instead of placing the same before the SPIO as was required under the Act and the Rules. The MRO also did neither process the said written request of the complainant nor place the same before the SPIO treating it as RTI urgent. Therefore, the written request of the complainant in issue escaped the notice of the persons dealing with the RTI matters as well the SPIO. The Commission feels that for such serious lapses, both Dr. Yudhistir Das, Deputy Medical Superintendent, GBP Hospital and Sri Sushanta Sen Choudhury, MRO of AGMC & GBP Hospital should be appropriately booked. The Principal Secretary to the Government of Tripura, Health & Family Welfare Department is, therefore, requested to initiate immediate disciplinary action for major penalty against both of them. Action taken/planned should be confirmed to this Commission forthwith.

7. The OP in his written representation has stated that the general records except for the Medico Legal Cases are retained only for a period of 10 years. In support of his statement, the OP has submitted a copy of the memorandum No.F.2(12)-MRS/BGPH/2005 dated 18.09.2005 issued by the Medical Superintendent, AGMC & GBP Hospital by which, the general records of more than 10 years old except for the Medico Legal Cases were destroyed in order to accommodate and maintain the current medical records properly. Therefore, the medical records of 1994 as sought for by the complainant, which was not a Medico Legal Case were not available in the custody of the SPIO or any other authority of the AGMC & GBP Hospital. The SPIO is under no obligation to disclose the information which are not available in his custody. It is beyond the scope of the Act that an SPIO should be compelled to create any information for disclosure. The OP has further submitted that immediately on receipt of the show-cause notice and the summons of this Commission, a vigorous search was undertaken by him in the GBP Hospital, but the treatment records pertaining to the information sought for by the complainant could not be traced out. However, learning from the written request in issue that the complainant had also received treatment at the TB and Chest Clinic of IGM Hospital, Agartala, the OP had personally visited the said centre, collected the available

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treatment documents related to the complainant and had sent the same to the complainant vide letter No.F.2(259)-Med/Gen/06 dated 06.02.2010 by registered post. In view of the above circumstances, the complainant deserves no further information except the available treatment documents already sent to him by the former SPIO. Let a copy of the above letter dated 06.02.2010 of the former SPIO along with the information reported to have been furnished be sent again to the complainant along with this order.

8. After careful examination of the available records and considering the facts and the circumstances of the case, this Commission is convinced that the OP being the former SPIO had no intention to deny the disclosure of the information sought for by the complainant. In fact, the OP took extra initiative to collect the available treatment records for their disclosure to the complainant immediately after the matter came to the notice of the former. This apart, the OP being the former SPIO also cannot be held directly responsible for the delay in responding to the written request in issue. It is, therefore, directed that the penalty proposal initiated against Dr. Debajyoti Kar, former Medical Superintendent and the SPIO of AGMC & GBP Hospital under section 20(1) of the Act stands dropped. The complainant also failed to establish during the process of inquiry of this complaint the nature and the extent of loss or other detriment suffered by him and, therefore, the demand of the complainant to direct the concerned public authority for payment of compensation does not stand.

9. With the above observations and orders, the complaint stands disposed of.

10. Let copy of this order be sent to the complainant, the former SPIO and the present SPIO. Also send a copy of this order to the Director of Health Services, Government of Tripura being the head of the Public Authority and the Principal Secretary to the Government of Tripura, Health & Family Welfare Department.

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



No. 196-200

Dated, 17.03.2010

Copy to:-

1. Ex-Hav. Megh Singh, No- 791190283, Vill- Mollahera, P.O.- Maruti, Dist- Gurgaon, Haryana, Pin No- 122015 (Complainant). A copy of the letter No.F. 2(259)-Med/Gen/06 dated 06.02.2010 of the former SPIO along with its enclosures is enclosed.
2. Dr. Debajyoti Kar, former Medical Superintendent and the State Public Information Officer, Agartala Govt. Medical College & GBP Hospital, Agartala
3. Dr. Himadri Bhusan Das, In-charge Medical Superintendent, Agartala Govt. Medical College & GBP Hospital, Agartala (present State Public Information Officer).
4. The Director of Health Services, Government of Tripura, P.N. Complex, Agartala (Head of the Public Authority).
5. The Principal Secretary to the Government of Tripura, Health & Family Welfare Department, Capital Complex, Agartala.

(S.C.Saha)
Secretary

Tripura Information Commission