



**TRIPURA INFORMATION COMMISSION**

P.N.Complex: Gorkhabasti : Agartala

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Complaint No. TIC – 58 of 2009-10

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Sri Sibur Ranjan Datta  
S/O Late Bimal Ch. Datta  
Anandapara, Sabroom Town  
P.O.- Sabroom, South Tripura  
Pin- 799145.....

Complainant

Vs

Sri Sri T.K. Das, Sub-Divisional Magistrate, Saboom, South Tripura (State Public Information Officer).....

Opposite Party

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**ORDER**

**Dated, 24.04.2010**

The complainant Sri Sibur Ranjan Datta assisted by Sri S.B.Hazarika is present.

2. The Opposite Party (OP) Sri Sri T.K. Das, Sub-Divisional Magistrate (SDM), Saboom and the State Public Information Officer (SPIO) is absent by a fax message No. 6053/SDM/SBM/RTI/2009 dated 24.04.2010 expressing his inability to appear before this Commission today on 24.04.2010 for the reason that he is tied-up with the process of TTAADC elections as Returning Officer for two Constituencies and, therefore, requested the Commission to fix up another date for hearing on the complaint.

3. Heard oral submission made by the complainant. Also perused the contents of the written request dated 26.12.2010 of the complainant submitted to the SDM, Sabroom, the reply dated 31.12.2009 of the OP and the written complaint dated 15.03.2010 of the complainant lodged with this Commission.



4. Brief facts leading to this complaint are that the complainant made a written request on 26.12.2009 to the SDM, Sabroom, South Tripura being the SPIO accompanied by the requisite amount of application fee seeking certain items of information under the RTI Act, 2005 (for short the Act). In response, Sri T.K. Das, SDM, Sabroom being the SPIO vide his letter No.46/SDM/SBM/RTI/2009 dated 31.12.2009 had informed the complainant that the information sought for by the latter could not be supplied as the same were not available in the office record since no license/permit for dealing with the cement item was being issued from the Food, Civil Supplies & Consumer Affairs (FCS&CA) Section of the office of the SDM, Sabroom. It is alleged by the complainant that in case, the information sought for by him were not available with the SDM, Sabroom, he should have transferred the written request in issue to the appropriate public authorities under section 6(3) of the Act, which the OP being the SPIO did not do and, therefore, has deliberately flouted the provisions of the Act and the Tripura Right to Information Rules, 2008 (for short the Rules) and that the letter dated 31.12.2009 of the SPIO did not mention about the appeal provision and the details of the First Appellate Authority. Being aggrieved with the above decision and the illegal steps of the SDM, Sabroom being the SPIO, the complainant has approached this Commission with this complaint seeking appropriate redress and also demanded for penal action against the SPIO under section 20 of the Act. Along with the written complaint, the complainant has furnished photocopies of the relevant documents.

5. The information sought for by the complainant vide his written request dated 26.12.2009 submitted to the SDM, Sabroom being the SPIO are summarized below:-

- (i) Copies of Trade License, Registration Certificate and Sales Tax Registration Certificate of Sree Maa Traders, Sabroom covering the period from 01.03.2009 to 30.06.2009.
- (ii) Copies of the invoices received with goods purchased and resold by Sree Maa Traders, Sabroom in respect of Shah Cement, L. Cement, NK Cement and Lafarge Cement for the period from 01.03.2009 to 30.06.2009.
- (iii) Prevailing retail sale prices of Shah Cement, L. Cement, NK Cement and Lafarge Cement approved by the Company/Firm/Authority concerned and sold by Sree Maa Traders, Sabroom during the period from 01.03.2009 to 30.06.2009.



6. The OP, being the SPIO vide his letter dated 31.12.2009 had informed the complainant that the information sought for by the latter could not be supplied as the same were not available in the office record since no license/permit for dealing with cement item was being issued by the FCS & CA Section of the office of the SDM, Sabroom. Such a communication by the OP did not have any support of law. In case, the information sought for by the complainant were not available in the custody of the OP being the SPIO, he was required by section 6(3) of the Act to transfer the written request in issue to the concerned public authorities under due intimation to the complainant as soon as practicable, but positively within five days of receipt of the written request dated 26.12.2009 of the complainant. Since, the OP did not comply with the provisions of section 6(3) of the Act and that the information sought for by the complainant vide his written request dated 26.12.2009 are not exempted under any of the provisions of the Act, the OP being the SPIO is now required to collect the documents/records pertaining to the said information from all sources and supply the same to the complainant within the time limit as may be specified by this Commission.

7. Trade license in the instant case was supposed to be issued by the Sabroom Nagar Panchayat. In case, the shop is situated in a regulated market area, registration shall have to be obtained from the Labour Department, Government of Tripura under the Shop and Establishment Act, 1970. Similarly, where annual turnover is more than Rs. 3 lakhs, sales tax registration is a must to be obtained from the Superintendent of Taxes of the concerned Charge under the Tripura Value Added Tax Act, 2004. However, for purchase and sale of only Indian brand cement, no registration from the Controller of Weights & Measures is necessary. The OP being the SPIO is, therefore, directed to collect the above documents/records from the concerned authorities and supply the same to the complainant as sought for by him under item-(i) of his written request dated 26.12.2009. On call, the Director of FCS & CA, Government of Tripura came and confirmed this Commission verbally that the cement is a de-controlled commodity for the present and was de-controlled too during 01.03.2009 to 30.06.2009 and, therefore, is not covered by the Essential Commodities Act, 1956. This apart, cement is also not included as an essential commodity under the Tripura Food Stuff Dealers' Licensing Order, 2010, he added. It is, therefore, admitted that the

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information sought for under items-(ii) &(iii) may not be available in the custody of the SDM, Sabroom. But, being the administrative head of the Sub-Division, the OP can not avoid the responsibility of having an effective control over the market. The OP is, therefore, directed to arrange for an immediate enquiry by a senior officer and to collect the available documents/records pertaining to the information sought for under items-(ii) & (iii) from Sree Maa Traders, Sabroom and supply the same to the complainant as larger public interest demands for their disclosure.

8. Violation of the provisions of section 6(3) of the Act does not warrant for any penalty and, therefore, it is not a fit case for penalty to be imposed on the SPIO under section 20(1) of the Act as demanded by the complainant. However, this Commission is constrained to observe that the OP being the SPIO did not handle the written request in issue properly and, therefore, he is liable to be warned to be more careful and circumspect in dealing with the RTI applications in future strictly in compliance of the relevant provisions of the Act and the Rules.

9. In view of the facts and the circumstances of the case stated above, the complaint stands decided on merit in the absence of the OP with the following orders:-

- (a) The OP Sri T.K. Das, SDM, Saboom and the SPIO is directed to collect the documents/records pertaining to the information sought for under items- (i), (ii) & (iii) as summarized at para - 5 above and supply the same to the complainant duly certified under his seal, signature and date wherever necessary in view of the discussions made at para - 6 & 7 above within a period of 30 days from the date of issue of this order.
- (b) The OP is formally warned to be more careful and circumspect in future in dealing with the RTI applications strictly in adherence to the relevant provisions of the Act and the Rules.
- (c) The OP is further directed to submit a report of compliance of the orders at (a) above to this Commission forthwith.
- (d) The District Magistrate & Collector, South Tripura District is requested to see and ensure that the above orders are complied with by the SDM, Sabroom being the SPIO.

Cg



(e) The Labour Commissioner, Government of Tripura, the Superintendent of Taxes, Belonia Charge and the Executive Officer, Sabroom Nagar Panchayat are directed that the required documents/records pertaining to the information sought for should be made available with the SDM, Sabroom being the SPIO on demand for their disclosure to the complainant within the given time.

10. Let copy of this order be sent to the complainant and the OP. Also send a copy of this order to the District Magistrate & Collector, South Tripura District.

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

No. 250-55

Dated, 24.04.2010

Copy to:-

1. Sri Sibu Ranjan Datta, S/O Late Bimal Ch. Datta, Anandapara, Sabroom Town, P.O.- Sabroom, South Tripura. Pin- 799145 (Complainant).
2. Sri Sri T.K. Das, Sub-Divisional Magistrate, Saboom, South Tripura (State Public Information Officer)- OP.
3. The District Magistrate & Collector, South Tripura District, Udaipur.
4. The Labour Commissioner, Government of Tripura, Agartala.
5. The Superintendent of Taxes, Belonia Charge, Belonia, South Tripura.
6. The Executive Officer, Sabroom Nagar Panchayat, Sabroom, South Tripura.

CS 24/4/10  
(S.C.Saha)  
Secretary

Tripura Information Commission