



## TRIPURA INFORMATION COMMISSION

P. N. Complex: Gorkhabasti  
Agartala - 799 006

Appeal No. TIC - 05 of 2010-11.

Mr. M.A.Khan  
66, Prakash Vihar, Dharampur  
P.O.- Araghar, Dehradun  
Uttarakhand- 248001 .....Appellant

Vs

1.Sri A. Sukla, IFS, Divisional Forest Officer, Sadar Forest Division, P.O.- Agartala College, West Tripura (First Appellate Authority).  
2.Sri Bimalendu Roy, TFS, Additional Divisional Forest Officer, Office of the Divisional Forest Officer, Sadar Forest Division, P.O.- Agartala College, West Tripura (State Public Information Officer).....Respondents

### ORDER Dated, 25.05.2010

The appellant Mr. M.A.Khan is absent without any step despite notice issued to him in advance vide No 246 dated 20.04.2010 directing him to appear before this Commission on 25.05.2010 fixed for hearing on the second appeal.

2. The Respondent 1 Sri A. Sukla, IFS, Divisional Forest Officer (DFO), Sadar Forest Division and the First Appellate Authority (FAA) is absent by a petition dated 07.05.2010 seeking exemption from personal appearance since he would be on leave during the period. Similarly, the Respondent 2 Sri Bimalendu Roy, TFS, Additional DFO, Office of the DFO, Sadar Forest Division and the State Public Information Officer (SPIO) is also absent by a petition dated 19.05.2010 expressing his inability to appear before this Commission on 25.05.2010 on the ground that he being a member of the Selection Board shall have to attend the

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Along with the memorandum of appeal, the appellant has submitted photo copies of the relevant documents.

4. The information sought for by the appellant vide his written request dated 28.08.2009 submitted to the SPIO in the office of the DFO, Sadar Forest Division are quoted below:-

"(i) Given the fact that Kathal has been exempted from various provisions of the Indian Forest Act 1927 and amendments made there under and you have accepted it as recorded in the compounding order, how the timber pieces were seized and how case has been compounded under Section 68 of the IFA, 1927.

(ii) When the timber pieces were seized under Section 41 & 42 of the IFA 1927, why the case was not compounded under Tripura Transit Rules which provides a maximum penalty of Rs. 500/- for such offences.

(iii) How a penalty of Rs. 8000/- has been imposed when the maximum penalty provided under IFA 1927 is only Rs. 5,000/-.

(iv) Whether any penal action has been taken against the staff of the Check Post of Barjala Wood Based industrial Estate, given the fact that acceptance of Kathal timber by the sawmill without Transit Pass has been taken as an offence under Section 41 & 42 of the IFA 1927.

(v) The seized forest produce liable to be confiscated becomes Govt property after compounding of the case. Such forest produce has to be disposed by the DFO in accordance with the procedure laid down by the Supreme Court vide order dated 15<sup>th</sup> January, 1998 in the WP (C) No. 202 of 1995 and/or dated 1<sup>st</sup> April 2002 in the IA No. 636 in the same Writ Petition. Ignoring these orders how the seized forest produce was redeemed to the same offender even without payment of Govt royalty."

5. In response to the above written request of the appellant, the Respondent 2 being the SPIO vide his letter dated 24.09.2009 had furnished the information against some of the items while denied disclosure of the remaining stating reasons thereon. It is, therefore, clear that the SPIO had responded to the written request of the appellant within the prescribed period of 30 days. The Respondent 2 also submitted before the FAA and this Commission as well that he did not invoke any of the exemption clauses of section 8 (1) of the Act while denying disclosure of the part information to the appellant. His denial was on the grounds that the said information were related to the decisions taken by the DFO being the Authorized Officer in the Quasi Judicial capacity and, therefore, these were not available in

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his custody and that he being the SPIO was not required by the Act to interpret or to provide justifications/clarifications on the decisions taken by any other authority. In support of his stand, the Respondent 2 has referred to a decision dated 03.04.2008 of the High Court of Bombay at Goa given in writ petition No-419 of 2007 in the case of Dr. Celsa Pinto vs. Goa State Information Commission holding that the term 'information' as defined in the Act does not include answers to the questions like 'why'. The relevant portion of the said judgment duly circulated by the Ministry of Personnel, Public Grievances & Pensions, DoPT, Government of India and re-circulated in the State by the GA (AR) Department, Government of Tripura runs as "The definition of information cannot include within its fold answers to the question "why" which would be same thing as asking the reason for a justification for a particular thing. The public information authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information." In view of the above, this Commission is satisfied that the Respondent 2 being the SPIO made no wrong in denying disclosure of the part information under item-(i) and the complete information under items – (ii) & (iii) on the grounds of non-availability and that the SPIO was not required by the Act to interpret or give any justifications/clarifications on the decisions taken by others and further that the queries made by the appellant are not the information within the meaning of section 2(f) of the Act and also to hold that since none of the clauses of sections 8(1) and 9 was invoked by the SPIO, the question of violation of section 10 does not arise. Similarly, there was nothing wrong in the order dated 27.01.2010 passed by the Respondent 1 being the FAA on the first appeal dated 31.10.2009 in issue holding that the decisions of the SPIO to deny disclosure of some of the information sought for by the appellant did not suffer from any infirmities and also directing the appellant to submit fresh RTI application to the SPIO for obtaining copy of the proceedings by the Quasi Judicial Authority.

6. In consideration of the facts and the circumstances stated above, this Commission is of the opinion that the decision dated 24.09.2009 of the SPIO communicated to the appellant and the order dated 27.01.2009 of the FAA passed on the first appeal in issue suffer from no legal infirmities and,



therefore, do not like to interfere with them. Hence, the said decisions are upheld.

7. Under the items - [i (later part)], (ii) & (iii), the appellant made queries asking for the reasons and the circumstances of some decisions taken by the Authorized Officer in Quasi Judicial capacity, which cannot be supplied by the Respondent 2 being the SPIO as these are neither available in his custody nor he is supposed to interpret or give any justifications/clarifications on those decisions. This apart, following the principle laid down by the High Court of Bombay at Goa as stated at para - 5 above, it may be held that the queries of the appellant denied by the SPIO do not constitute 'information' within the meaning of section 2(f) of the Act. Therefore, the appellant deserves no information under items- [i (later part)], (ii) & (iii) of his written request dated 28.08.2009.

8. The Respondent 2 being the SPIO had responded to the written request dated 28.08.2009 of the appellant within the time limits specified in section 7(1) of the Act. This apart, the Commission is also satisfied that the SPIO neither furnished any misleading information nor denied disclosure of some of the items of information with any malafide intention. In fact, the steps taken by the Respondent 2 being the SPIO had the support of the law. Therefore, this is not a fit case for imposition of penalty under section 20(1) of the Act.

9. In his written request dated 28.08.2009 submitted to the SPIO in the office of the DFO, Sadar Forest Division, the appellant made several queries, but did not ask for the copies of the proceedings by the Quasi Judicial Authority. Therefore, he is not entitled to have access to any additional information in the form of the certified copies of the proceedings by the Quasi Judicial Authority at this stage as these were not the part of his original written request dated 28.08.2009. This Commission fully agrees with the direction of the FAA that if the appellant so wishes, he should submit fresh RTI application to the concerned SPIO accompanied by the requisite amount of application fee for getting the certified copies of those proceedings.

10. Rule 22 of the Tripura Right to Information Rules, 2008 provides that where on the date fixed, or on any other date to which the hearing to be adjourned, in spite of receipt of notice of the Commission to appear, the appellant does not appear when the appeal called on hearing, the

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Commission may make an order that the appeal be dismissed and such disposal on default shall not be construed as dismissal on merit. However, this Commission after taking an applicant-friendly approach decides the present appeal on merit.

11. With the above observations and findings, the second appeal stands dismissed.

12. Let copy of this order be sent to the appellant and the Respondents 1 & 2. Also send a copy of this order to the PCCF, Government of Tripura being the head of the Public Authority.

Sd/-

(B.K.Chakraborty)

State Chief Information Commissioner

No. 434-40

Dated, 25.05.2010

Copy to:-

- 1.Mr. M.A.Khan, 66, Prakash Vihar, Dharampur, P.O.- Araghar, Dehradun, Uttarakhand- 248001 (Appellant).
- 2.Sri A. Sukla, IFS, Divisional Forest Officer, Sadar Forest Division, P.O.- Agartala College, West Tripura (First Appellate Authority)- Respondent 1.
- 3.Sri Bimalendu Roy, TFS, Additional Divisional Forest Officer, Office of the Divisional Forest Officer, Sadar Forest Division, P.O.- Agartala College, West Tripura (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