

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



Complaint No 09 of 2007-08.

Shruti Singh Chauhan  
E- 109, Indraprasha Building, Pandav Nagar,  
Delhi- 110092.....Complainant

Vs

1.Sri S. Chaudhuri, State Public Information Officer, Chief Minister's  
Secretariat, Government of Tripura, Agartala  
2. Sri M.L.Das, Under Secretary to the Government of Tripura, GA (AR)  
Department, Agartala (SPIO)  
.....Opposite Parties

In the matter of a complaint under section 18(1)  
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 Complainant: None.

For the Opposite Party: 1.Sri S. Chaudhuri, State Public Information Officer,  
Chief Minister's Secretariat, Government of  
Tripura, Agartala.  
2. Sri M.L.Das, Under Secretary to the Government  
of Tripura, GA(AR) Department, Agartala (SPIO)

Date of lodging complaint: 10.05.2007

Date of hearing argument: 24.05.2007

Date of pronouncing judgment: 04.06.2007

JUDGMENT & ORDER

Facts:

1. This complaint arises out of a written application dated 26.04.2007 of Shruti Singh Chauhan (here in after referred to as the complainant) received by this Commission on 10.05.2007 by speed post.



2. Gist of the complaint is that the complainant sent a written request seeking information under the RTI Act, 2005 (for short the Act), which was received by the State Assistant Public Information Officer (SAPIO) in the Chief Minister's Secretariat, Government of Tripura, Agartala on 17.02.2007. But the SAPIO issued money receipt stating to have received the written request and the application fee of Rs.10/- in the form of IPO on 16.03.2007 i.e. about one month after the actual date of receipt by the SAPIO. Thus, the SAPIO caused delay of about one month in receiving the written request, which is contrary to the provisions of the Act. The complainant further alleged that even after expiry of the statutory period, the concerned State Public Information Officer (SPIO) did not provide the information as sought for by the complainant. In view of these facts, the complainant approached this Commission for issue of a direction to the SPIO to provide the information sought for and also to impose penalty on the SPIO as per provisions of sub sections (1) and (2) of section 20 of the Act.

3. On perusal of the complaint, prima-facie grounds are found to admit a complaint under section 18(1) of the Act.

4. In response to the summons, Sri S. Chaudhuri, Under Secretary & SPIO in the Chief Minister's Secretariat, Government of Tripura, Agartala - Opposite Party No.1 ( OP No.1) and Sri M.L. Das, Under Secretary to the Government of Tripura, GA(AR) Department- Opposite Party No.2 ( OP No.2) appeared and submitted their respective written representations.

5. The complainant opted to remain absent in course of hearing on the complaint. However, heard the Opposite Parties (OPs) in person.

Points for decision:

6. Considering the complaint along with the papers submitted therewith, written representations of the OPs and the copies of the papers submitted therewith, the following points are to be decided: -

- (i) Did the SPIO in the Chief Minister's Secretariat contravened the provisions of the Act in dealing with the written request of the complainant?
- (ii) Did the SPIO in the GA(AR) Department contravened the provisions of the Act in dealing with the written request of the complainant for providing information?
- (iii) If the SPIOs are liable to be penalized as per provisions of sub sections (1) and (2) of section 20 of the Act?

Reasons for decision:

Point No.(i):

7. It is admitted by the OP No.1 that the SAPIO in the Chief Minister's Secretariat, Government of Tripura, Agartala received the written request along

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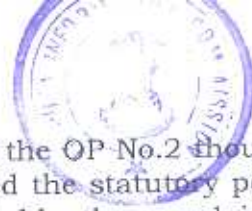


with the application fee of Rs.10/- in the form of IPO from the complainant on 17.02.2007 and that the formal money receipt in the prescribed form was issued by the SPIO on 16.03.2007. He pleaded that they were in a dilemma about acceptance of the application fee sent in the form of IPO as the Tripura Right to Information Rules, 2005 (the Rules) provides for payment of the application fee only in cash. So, they took sometime to have clarification in the matter and ultimately in order to show an applicant friendly gesture, they have accepted the application fee in the form of IPO. Apart from this, he being the OSD in the Chief Minister's Secretariat and the Under Secretary of both the GA (Confidential & Cabinet) and GA (Personal & Training) Department in addition to discharging the duties of SPIO, could not afford adequate time for attending the works meant for SPIO. For all these reasons he could not take a timely decision on the written request of the complainant and thus the delay had been caused, the OP No.1 added. He expressed his regret and took note of it for future. We have considered the submission made by the OP No.1 and we are of the view that the OP No.1 had demonstrated a sincere and applicant friendly approach to the written request of the complainant. Since the application fee was not deposited in the manner as provided by the relevant Rules, the OP No.1 being the SPIO could have returned the IPO to the complainant with a direction to deposit the fee in cash which would have taken more time and labour for both the parties. Instead, he accepted the IPO taking the responsibility on himself only to give benefit to the complainant. So, we do not find any malafide intention on the part of the OP No.1 to take any decision adverse to the interest of the complainant. He had promptly transferred the written request to the OP No.2 being the concerned SPIO for providing the information. The explanation offered by the OP No.1 is found to be just and sufficient to satisfy the delay caused in formal receipt of the written request and transferring the same to the concerned SPIO. Thus, we do not find the OP No.1 to have contravened any provisions of the Act. This point is, accordingly, decided in the negative.

Point No.(ii):

8. It is admitted by the OP No.2 that he had received the written request of the complainant from the OP No.1 on 19.03.2007 and thereafter, he had supplied partial information to the complainant vide his letter No.F.3(22)-GA(AR)/06(L)/635 dated 17.04.2007 without charging any additional fee and he had intimated the complainant to deposit an amount of Rs. 664/- only for providing copies of 332 pages @ Rs. 2/- per page vide his letter No.F.3(22)-GA(AR)/06(L)/761 dated 27.04.2007. The OP No.2 had also furnished copies of the aforesaid two letters along with his written representation for perusal of this Commission. He also submitted that till the date of submission of the representation, the complainant did not deposit the further fees as intimated by the OP No.2 for which the remaining information could not be provided. There is no denial of the contention of the OP No.2 from the side of the complainant in this regard. Therefore, we do not find any laches on the part of the OP No.2 in dealing with the written request of the complainant after receipt of the same from the OP No.1. The OP No.2 is under no obligation to provide the balance information unless the complainant deposits the further fees as assessed and duly intimated to the latter.

C<sub>2</sub>



9. It is established on perusal of the records that the OP No.2 though had supplied partial information in time, but had exceeded the statutory period in intimating the assessment of further fees to be deposited by the complainant for supply of the remaining information. However, considering the nature of information and the intention ventilated by the OP No.2 to provide the information, we are of the view that he had no malafide intention to deprive the complainant of his right to have access to the information sought for. So, we are not inclined to treat such trifling delay to warrant any penalty. However, we are constrained to make the observation that the OP No.2 shall be more diligent in disposing of the request for information under the Act within the statutory period in future.

10. Taking the discussions made here in above into account, this second point is also decided in the negative.

Point No. (iii):

11. In order to impose penalty on an SPIO invoking the provisions of section 20 of the Act, the element of malafide intention of the SPIO denying the right of a citizen to have access to the information is required to be established. In view of the decisions taken against point No. (i) and (ii) above, the OPs No.1 & 2 are not found to have contravened any provisions of the Act with any malafide intention in dealing with the written request of the complainant seeking information and, therefore, they are not liable to be penalized under section 20 of the Act.

Decision:

12. In fine, the complaint is disposed of accordingly on contest with the observations made in paragraph-9 above.

13. Send copy of this judgment and order to the complainant and both the OPs. Also send copy of this judgment and order to the Secretary to the Government of Tripura, GA (AR) Department being the head of the Public Authority.

14. 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

Complaint No. 09 of 2007-08/ 551-514June 04, 2007

Copy to:

1. Shruti Singh Chauhan, E- 109, Indraprasha Building, Pandav Nagar, Delhi-110092 (Complainant).
2. Sri S. Chaudhuri, State Public Information Officer, Chief Minister's Secretariat, Government of Tripura, Agartala (OP No.1).
3. Sri M.L.Das, Under Secretary to the Government of Tripura, GA (AR) Department, Agartala- SPIO (OP No.2).
4. The Secretary to the Government of Tripura, GA (AR) Department (head of the Public Authority).

4/4/07  
(S.C.Saha)  
Secretary

Tripura Information Commission