

**In the Tripura Information Commission**  
**Pandit Nehru Complex : Gorkhabasti : Agartala**

Complaint No. 1 of 2006-07

Miss Swapna Majumder  
 D/O Chitta Ranjan Majumder of  
 Vill: Dalak : P.O. Malbasa  
 P.S. Birganj ..... Complainant

Vs

The Superintendent of Police  
 Ambassa : Tripura ..... Opposite party

**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: Shri Ranjit Chandra Das, Inspector of Police  
 (DIB), Dhalai, Ambassa.

Argument heard on: 30.05.2006

Judgment delivered on: 31.05.2006

**JUDGMENT & ORDER**

**Facts:**

This is a complaint lodged by Miss Swapna Majumder here-in-after referred to as the complainant on 10.5.2006 as per provision of section 18 of the Right to Information Act, 2005 (here-in-after referred to as the Act).

2. The fact leading to this complaint is that Chitta Ranjan Majumder, father of the complainant, a fisherman left home situated at Dalak within

Birganj Police Station (for short P.S.) of South Tripura District on 19.3.1998 for Damburnagar Water Reservoir situated within Dhalai District for catching fish. But Chitta Ranjan Majumder did never return home. The complainant reported the fact of missing of Chitta Ranjan Majumder to Birganj P.S. on 11.5.1998, which was entered in G.D. No. 297 of the said P.S. As the complainant could learn that the Damburnagar Water Reservoir falls within the jurisdiction of Raishyabari P.S. under Dhalai District, she lodged another information of missing of her father with the Raishyabari P.S. which was entered in G.D. No. 27 dated 02.06.1998 of the said P.S. Having no response about trace of her father and no result of investigation by the police, the complainant approached the National Human Rights Commission, New Delhi on 12.01.2006. The National Human Rights Commission directed the Director General of Police, Tripura to hold an enquiry into the matter and to report vide case No. 34/23/2005-06/OC. In pursuant to the said instructions, the Officer-In-Charge of Birganj P.S. made an enquiry into the matter and submitted a report to the Sub Divisional Police Officer, Amarpur holding that the place of occurrence fell within the territorial jurisdiction of Raishyabari P.S. and he stated to have sent a requisition to the Officer-In-Charge of Raishyabari P.S. to send a factual report in connection with the case as the similar G.D. entry was reportedly made in the Raishyabari P.S. also. It is submitted that the complainant approached the Officer-In-Charge of Raishyabari P.S. on 07.04.2006 and made an oral request for information about the result of the enquiry made by the Raishyabari P.S. on the basis of G.D. No. 27 dated 02.06.1998 of the said P.S. But the complainant was not provided with such information. Then she approached the Sub Divisional Police Officer, Gandacherra on two or three occasions but she was not favoured with the information. Now, the complainant alleged that she was not provided with reasonable assistance to reduce the oral request in writing by the State Public Information Officer of Raishyabari P.S. in violation of the provision of section 6(1) of the Act and that she was refused access to the information sought for. The complainant urged for holding an enquiry into the matter and transfer her request in writing attached with the complaint to the concerned Public Authority for providing information as asked for. The complainant in her request for obtaining information addressed to the State Public Information Officer (Office of the Superintendent of Police, Dhalai District, Ambassa ) attached with the complaint, claimed herself to be a member of a family living below poverty line although she has not submitted any proof in support.

3. The Government of Tripura in exercise of the powers conferred by section 24(4) of the Act, vide Notification No.F.3 (5)-GA (AR)/2005/VI dated 27.9.2005, notified that the Act shall not apply to the Home (Police) Department, Government of Tripura including its forensic laboratory provided that the Act shall apply to the Home (Police)

Department in respect of any information pertaining to any allegation of corruption and human rights violation.

4. The pivotal points of allegation are that the complainant was not given assistance to get her oral request reduced to writing and that she was not provided with access to the information, namely, the result of investigation about missing of her father. The complainant could not state if there is any designated State Public Information Officer in respect of Raishyabari P.S. This Commission is also not aware of any information if the Director General of Police, Government of Tripura (for short D.G.P., Tripura ) has designated any such SPIO for Raishyabari P.S.

5. Prima facie, the complaint disclosed that the police have denied the complainant the human rights of fair and speedy investigation and therefore it comes within the purview of the Act. Accordingly the Commission took cognizance of the allegation for holding an enquiry as per provision of the section 18 of the Act.

6. Since the Commission was not aware of the information about designating of any SPIO in respect of Raishyabari P.S., the D.G.P., Tripura was requested to furnish necessary information in this regard. In reply, the office of the D.G.P. Government of Tripura vide letter No.15228/FR/F.Rv(171)/PHQ/05 dated 16.5.2006 informed this Commission that all the Superintendents of Police at District level and all the Sub Divisional Police Officers at sub-divisional level have been recommended for declaring as SPIOs and SAPIOs respectively by the Home Department, Government of Tripura and issuance of Government notification in this regard was awaiting.

7. The Commission has considered the said letter of the D.G.P., Tripura on 16.5.2006 and passed the following preliminary orders:

“ Perused letter no. 15288/ F.Rv(171)PHQ/05 dated May 16, 2006 of the Director General of Police, Tripura submitted in response to the Commission's notice dated May 10, 2006 regarding appointment of the State Public Information Officers (SPIO) and the State Assistant Public Information Officers ( SAPIO ) under the Police Department. It appears from the said letter of DGP that a proposal was sent by PHQ to the Home Department, Government of Tripura vide their letter no. 37072/F.RV (171)/PHQ/05 dated September 6, 2005 for appointment of the SPIOs and the SAPIOs. DGP has also informed that Government notification in this regard is yet to be issued.

Section 5 of the RTI Act, 2005 provides that every Public Authority, within 100(one hundred) days of the enactment of the Act shall designate as many officers as State Public Information Officers and the State

Assistant Public Information Officers to receive the applications for Information or appeals. DGP is a public authority. He is, therefore, not the recommending authority, but the designating authority. It was, therefore, obligatory on the part of the PHQ to appoint SPIOs and SAPIOs in all sub-ordinate offices under their control on or before 22.09.2005. By not doing so, they have violated the provisions of Section 5 of the RTI Act, 2005. However, the Commission in exercise of the powers conferred by Section 19(8)(a)(ii) of the Act, directs that the Director General of Police, Government of Tripura should appoint SPIOs, SAPIOs in all offices under his control and corresponding First Appellate Authorities within a period of 15 (fifteen) days from the date of issue of this order and send a compliance report to this Commission."

8. With the contemplation that the D.G.P., Tripura in compliance with the order passed on 16.5.06 as depicted in the preceding paragraph, will issue necessary notification designating the Superintendent of Police (for short S.P.) of Dhalai District as the State Public Information Officer and the Raishyabari P.S. will be within his territorial jurisdiction, this Commission made the S. P., Dhalai District as the opposite party in this case for the purpose of holding enquiry into the complaint. The S.P., Dhalai District has been noticed to appear and submit representation, if any, on the complaint.

9. Shri Ranjit Chandra Das, Inspector of Police (DIB ), Dhalai District, Ambassa representing the opposite party – the Superintendent of Police, Dhalai District, Ambassa submitted a written representation on 30.05.2006 submitting that one Krishnadhan Das son of Late Abinash Das of Debnathpara, Surma lodged an information about missing of Chitta Ranjan Majumder father of the complainant Miss Swapna Majumder with the Raishyabari P.S. which was entered in the G.D. of the P.S. vide No. 27 dated 02.06.1998. He further stated that enquiry into the said G.D. was done by the Raishyabari P.S. as well as by the SDPO, Gandacherra and copies of the said G.D. entry and the enquiry reports may be available for supply.

**Points for decision:**

10. In consideration of the complaint and the representation submitted by the opposite party, the following points are required to be decided:

- (i) Has the complainant been denied the human rights of fair and speedy investigation by the police authority of Raishyabari P.S.?
- (ii) Is the complainant entitled to the right of access to the result of enquiry made by the Raishyabari P.S. about the missing of her father?

- (iii) Is the complainant entitled to a direction to be issued to the State Public Information Officer (S.P., Dhalai District) by this Commission to furnish the information sought for?
- (iv) Have the Officer-In-Charge of Railshyabari P.S. and the SDPO, Gandacherra Sub-division violated any provision of the Act?

11. Heard Shri Ranjit Chandra Das, Inspector of Police (DIB), Dhalai District, Ambassa on behalf of the opposite party. None could be heard on behalf of the complainant for non- appearance.

**Reasons for decision:**

12.1. **Point No.1:** First of all we shall traverse the law relating to the human rights to a citizen in India. As defined by section 2(1)(d) of the Protection of Human Rights Act, 1993 "human rights' means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India".

12.2. Again as defined by section 2(1) (f) of the said Act " International Covenants means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16<sup>th</sup> December, 1966."

12.3. Article 21 of the Constitution of India lays down that " No person shall be deprived of his life or personal liberty except according to procedure established by law."

12.4. The right to liberty and security of a person found place in Article 9 of the International Covenant on Civil and Political Rights 1966 which runs as follows:

"Article 9-1: Everyone has the right to liberty and security of person."

13. From the above discussion of law relating to human rights of a person in India it is clear that every person has the right to liberty and security of person which is construed to be a human right.

14. The factual position of the present case is that Chitta Ranjan Majumder, a fisherman, father of the complainant Miss Swapna Majumder had been missing since 19.3.1998 from his work place at Damburnagar Water Reservoir. This fact was reported by the

complainant to Birganj P.S. on 11.5.1998 which was entered in the General Dairy of the P.S. vide no. 297 dated 11.5.1998. As the complainant was told that the place of occurrence in Damburnagar Water Reservoir fallen within the jurisdiction of Raishyabari P.S., the complainant lodged another information with the Raishyabari P.S. on 02.06.1998 which was entered in the G.D. vide no. 27 dated 02.06.1998. It revealed from the photocopy of the report of enquiry dated 19.4.2006 made by the Officer-In-Charge of Birganj P.S. which was submitted to the SDPO, Amarpur that Chitta Ranjan Majumder left home on 19.3.1998 morning for the last time and he did not return till the date of submission of the report. He also reported that during the year 1998 and 1999 the movements of extremists and extremist incidents were very high in all over Amarpur Sub Division and the area of Damburnagar Water Reservoir and its adjacent villages were known as extremists infested areas. He further reported that considering the said situation it was presumed by the witnesses that the said missing person might have been kidnapped and killed by the extremist groups. No proper evidence was found in support of their assumption during his enquiry. It is also mentioned in the said report that the Inquiring Officer of Birganj P.S. had sent a requisition to the Officer-In-Charge of Raishyabari P.S. to send a factual report in connection with the case. The incident took place as long back as in the year 1998 and the police officers of Birganj P.S. have enquired into the matter in April 2006 after long eight years. On the other hand the Officer-In-Charge of Raishyabari P.S. has not communicated any information to the complainant who is also the informant about the fate of the enquiry or investigation done by them about the missing of Chitta Ranjan Majumder.

15. The Code of Criminal Procedure casts a duty upon the police to make an investigation on the basis of the information lodged by the complainant under section 156 or 157 of the Code. It is also the duty of the police to submit a report to the Magistrate under section 173 of the CrPC. The relevant portions of section 173 of the CrPC are re-produced below:

**“Section 173 (1):** Every investigation under this chapter shall be completed without unnecessary delay.”

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**“Section 173 (2) (ii):** The officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any, by whom the information relating to the Commission of the offence was first given.”

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16. The aforesaid provisions of the CrPC require the police officer concerned to hold an enquiry on the information of commission of any

offence without unnecessary delay and also to communicate the result of the investigation to the informant. When an apprehension exists for abduction of an individual by the extremists, protection of human rights of security of person of such individual by the State Police arises. In such a situation the relative of such abducted person acquires the right to have a fair and speedy investigation by the police to ascertain the fate of such adducted person.

17. Apart from this, it is within the knowledge of this Commission that the Government of Tripura vide notification No. F.11 (1)-FIN (G)/94 dated 19.2.96 of the Finance Department made provision for grant of benefit to the next of kin of the person missing after abduction by the extremists and suspected to have been killed by them. The Finance Department vide another notification of even number dated 14.5.1999 clarified that the circumstances leading to the kidnapping of a person and the assessment as to whether it can be concluded that the person has in fact died or been killed at the hands of the extremists shall be ascertained through the District Superintendent of Police and that the benefit to the next of kin of the missing person shall be given subject to the condition that the person has been missing for two years or more. The effect of such benefit was given from 10.4.1998.

18. The above decision of the State Government made it imperative for the District Superintendent of Police to ascertain the fact as to whether the missing Chitta Ranjan Majumder was, in fact abducted by the extremists at least within the period of two years from 19.3.1998 in order to ensure the entitlement of the next of kin of said Chitta Ranjan Majumder to the benefit to be granted by the State Government in pursuance of the two notifications cited in the preceding paragraph.

19. Such a decision of the Government of Tripura guaranteed the human right of social security of a person who lost the earning member of the family as enshrined in the International Covenant on economic, social and cultural rights, 1966 in Article 9 which runs as thus: "The State parties to the present Covenant recognize the right of everyone to social security including social insurance".

20. In the present case, the Officer-In-Charge of Birganj P.S. has not communicated anything about the result of investigation to the informant i.e. the complainant within long eight years. The Officer-In-Charge of Raishyabari P.S. has also communicated nothing to the complainant about the fate of enquiry or investigation at all. Thus the complainant has been denied the human rights of fair and speedy investigation by the Police Authority. The first point is, accordingly, decided in the affirmative.

21. **Point No.2:** In para 3 above, it is mentioned that the Government of Tripura by notification has kept the Home (Police) Department out of purview of the Act except in respect of information pertaining to any allegation of corruption and human rights violations. In deciding Point No. 1 we held that the Police Authority has denied the complainant the human right of fair and speedy investigation. So the complainant has the right to know the result of the investigation, if any, done by the Officer-In-Charge of Raishyabari P.S. on the basis of the information lodged by the complainant about missing of her father Chitta Ranjan Majumder. The District Superintendent of Police of Dhalai District was also under obligation to make some enquiry to ascertain the fact whether Chitta Ranjan Majumder was abducted and killed by the extremist or not in pursuance of the Notification No.F.11 (1)-FIN (G)/94 dated 14.5.1999 of the Finance Department, Government of Tripura.

22. Besides violation of human rights as mentioned in the Government notification, exempting the Home (Police) Department from purview of the Act, another aspect is required to be considered to examine complainant's right of access to the information in issue. In the proviso to section 8(1)(j) of the Act it is laid down that the information, which cannot be denied, to the Parliament or a State Legislature shall not be denied to any person. The information sought for by the complainant from the Officer-In-Charge of the Raishyabari P.S. is of such nature that if it is asked for by the member of the Parliament or State Legislature it cannot be denied in view of the relevant provisions of the Rules of Procedure and Conduct of Business in the respective Legislature. So on this count also the information sought for is to be provided to the complainant.

23. In view of the discussion made here-in-above, we decide this second point in favour of the complainant and hold that she has the right of access to the information about the result of the investigation done by the Police Authority on the basis of her information lodged with the Raishyabari P.S. vide G.D. No. 27 dated 02.06.1998.

24. **Point No.3:** In the preceding paragraph we held the complainant to be entitled to right of access to the information relating to investigation about missing of her father Chitta Ranjan Majumder. It is revealed from the report of the Office of the D.G.P., Tripura that he designated no State Public Information Officer or State Assistant Public Information Officer in respect of Raishyabari P.S. till 16.5.2006, although he has recommended to the State Home Department for issuing such notification. This Commission has already passed a preliminary order on 16.5.2006 as mentioned in para-7 above for designating SPIOs and SAPIOs from his office. It is expected that in the meantime the D.G.P., Tripura has already

designated the SPIO and SAPIO in respect of Raishyabari P.S. under Dhalai District. It is expected that in the meantime the S.P., Dhalai District has been designated as SPIO for the Dhalai District within which Raishyabari P.S. is situated.

25. Although the complainant submitted that she herself lodged the information about missing of her father with the Raishyabari P.S. on 0.2.06.1998 and the information was entered in G.D. No. 27 dated 0.2.06.1998 of the said P.S., but it is contended for the opposite party that in fact the said information was lodged by one Krishnadhan Das. Albeit, the fact remains that the information relating to missing of Chitta Ranjan Majumder was lodged with Raishyabari P.S. and it was entered in the G.D. against the same number and date. So we should have no hesitation to give the direction to the S.P., Dhalai District to furnish the appropriate information on the result of enquiry done by the police on the basis of G.D. entry No. 27 dated 0.2.06.1998 of Raishyabari P.S. along with a true copy of the said G.D. entry.

26. **Point No.4:** It is evident from the information furnished by the Office of the DGP, Tripura that till 16.5.2006 no State Public Information Officer or State Assistant Public Information Officer was designated in respect of Raishyabari P.S. So the question of violation of provision of the Act on the part of the Officer-In-Charge of Raishyabari P.S. and SDPO, Gandacherra does not arise. However, we are constrained to observe that the Director General of Police, Tripura has failed to exercise due diligence in designating the SPIOs and SAPIOs in appropriate places in due time in compliance with the relevant provisions of the Act which caused inconvenience to the citizens. Albeit, the Officer-In-Charge of the Raishyabari P.S. and the SDPO, Gandacharra cannot be blamed for violation of the provisions of the Act. Thus this fourth point is decided in the negative.

**Decisions:**

27. In allowing the complaint, we pass the following orders:
- (i) The preliminary order passed on 16.5.2006 as mentioned in para-7 in the judgment is hereby made absolute.
  - (ii) The complainant Miss Swapna Majumder is entitled to the right of access to information relating to the result of the enquiry done by the Raishyabari P.S. and the SDPO, Gandacherra vide G.D. entry No. 27 dated 02.06.1998 of Raishyabari P.S. along with a true copy of the said G.D. entry.

- (i) The Superintendent of Police, Dhalai District shall furnish the information mentioned in order number (ii) above within a period of 15(fifteen) days from the date of passing the judgment. Information shall be supplied free of cost having satisfied with the claim of the complainant regarding her BPL status, otherwise on payment of requisite fees.

28. With the above orders, the complaint dated 10.5.2006 made before the Commission stands disposed of.

29. Authenticated true copy of the judgment and order shall be supplied free of cost to each of the complainant, the S.P., Dhalai District and the D.G.P., Tripura. A copy of the judgment and order shall also be sent to the Chief Secretary to the Government of Tripura.

30. Pronounced.

Sd/-

( **D.K.Daschadhuri** )

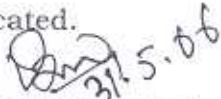
State Information Commissioner

Sd/-

( **B.K.Chakraborty** )

State Chief Information Commissioner

Authenticated.

  
(D.P.Debbarma)

**Secretary**

Tripura Information Commission

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**TRIPURA INFORMATION COMMISSION**

**Pandit Nehru Complex : Gorkhabasti : Agartala**

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No. 197-200/SCIC/TIC/06

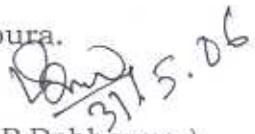
May 31, 2006

Copy to:

- 1) Miss Swapna Majumder, D/o. Chitta Ranjan Majumder, Vill: Dalak, P.S. Birganj, Amarpur, South Tripura (Complainant)
- 2) The Superintendent of Police, Dhalai District, Ambassa (Opposite Party)

Copy also forwarded to:

- 1) The Chief Secretary, Government of Tripura.
- 2) The Director General of Police, Government of Tripura.

  
( D.P.Debbarma )

**Secretary**

Tripura Information Commission