



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

Complaint No TIC-04 of 2008-09.

Smt. Anjana Deb  
D/O Sri Abinash Deb  
Thana Road, P.O. & P.S.- Dharmanagar  
North Tripura.....Complainant

Vs.

1. Sri Harendra Ch. Sarkar, Deputy Director of Youth Affairs & Sports, North Tripura District, Kailashahar.  
2. Sri Swapan Kumar Das, Sports Officer, Sub-Divisional Youth Affairs & Sports Office, Dharmanagar, North Tripura (State Public Information Officer).  
3. Sri S. Bhowmik, Director of Youth Affairs & Sports, Government of Tripura, Agartala (Head of the Public Authority & the First Appellate Authority)  
.....Opposite Parties

In the matter of the 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: The complainant herself.

For the Opposite Party No. 1 : Sri Harendra Ch. Sarkar, Deputy Director of Youth Affairs & Sports, North Tripura District, Kailashahar.

For the Opposite Party No. 2 : Sri Swapan Kumar Das, Sports Officer, Sub-Divisional Youth Affairs & Sports Office, Dharmanagar ( State Public Information Officer).

For the Opposite Party No. 3 : Sri S. Bhowmik, Director of Youth Affairs & Sports, Government of Tripura ( Head of the Public Authority & the First Appellate Authority).

Date of lodging the complaint: 14.05.2008

Dates of hearing: 09.06.2008 & 25.06.2008

Date of pronouncing the judgment and order: 11.07.2008

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JUDGMENT AND ORDER

Facts:

1. This complaint arises out of a written application dated 12.05.2008 of Smt Anjana Deb (here in after referred to as the complainant) sent by courier post and received by this Commission on 14.05.2008. The allegation of the complainant is that she submitted through courier post a written request dated 17.12.2007 to the Sports Officer, Sub-Divisional Youth Affairs & Sports (YA&S) Office, Dharmanagar seeking three items of information under the RTI Act, 2005 (for short the Act) depositing Rs.10/- as the application fee and advance additional fee of Rs.10/- by money order, which were received by the latter on 18.12.2007. Having no response from the Sports Officer, YA&S, Dharmanagar, the complainant preferred a memorandum of first appeal on 05.03.2008 to the Deputy Director of YA&S, North Tripura District, Kailashahar being the First Appellate Authority (FAA) who also did not respond to the first appeal till the date of lodging the complaint. Hence, the complainant approached this Commission seeking appropriate redress to have access to the information sought for. The complainant furnished copies of the requisite papers and documents along with the written application.

2. On perusal of the complaint, adequate materials were found to take cognizance of a complaint under section 18(1) of the Act.

3. In response to the summonses, the Opposite Party (OP) 1 Sri Harendra Ch. Sarkar, Deputy Director of YA&S, North Tripura District, Kailashahar and the OP2 Sri Swapan Kumar Das, Sports Officer, Sub-Divisional YA&S Office, Dharmanagar appeared and submitted their respective written representations.

4. It reveals from the written representation of Sri Swapan Kumar Das, Sports Officer, Sub-Divisional YA&S Office, Dharmanagar that at the relevant time, he was neither the State Public Information Officer (SPIO) nor the State Assistant Public Information Officer (SAPIO) in the office of the Sports Officer, Sub-Divisional YA&S, Dharmanagar and, therefore, after receipt of the written request in issue of the complainant, he sent the same along with the fees of Rs.20/- to the Directorate of YA&S, Government of Tripura, Agartala vide covering letter No.F.5(16)/SAYS-DMN/07/994 dated 05.01.2008 addressed to the Director, YA&S, Government of Tripura, Agartala. He further submitted that he was designated as the SPIO by the public authority concerned vide notification No.F.4(43)-DYAS/2005/14804-823 dated 25.02.2008.

5. Since the written request dated 17.12.2007 of the complainant in issue along with the fees was sent to the Director of YA&S, Government of Tripura, he was impleaded as the OP 3 and accordingly summoned. In response, Sri S. Bhowmik, Director of YA&S, Government of Tripura appeared and submitted his written representation narrating the facts and the circumstances under which, the written request and the first appeal in issue of the complainant were handled.



6. On perusal of the written representation of the OP3, it reveals that the OP2 after receipt of the written request dated 17.12.2007 of the complainant seeking information along with the application fee of Rs.10/- and advance fee of Rs.10/- (Rs. 20/- in total), had sent them to the Director of Youth Affairs & Sports, Government of Tripura vide his letter No.F.5(16)/SYAS-DMN/07/994 dated 05.01.2008 and the same was received in the office of the latter on 06.02.2008. But, so far no formal receipt towards payment of the fees was issued to the complainant nor it was deposited in the Government ex-chequer against the appropriate head of account. As on the date of receiving the written request by the OP 2, he was not the designated SPIO, but in the meantime, he has been designated as the SPIO vide notification No.F.4(43)-DYAS/2005/14804-823 dated 25.02.2008 in respect of the Sub-Divisional Youth Affairs & Sports Office, Dharmanagar. So, this Commission by an interim order passed on 25.06.2008 directed the Director of Youth Affairs & Sports, Government of Tripura (OP3) to make necessary arrangements for issue of formal money receipt to the complainant towards payment of Rs.10/- as application fee, deposit of the said amount in the Government ex-chequer and refund of the balance amount of Rs.10/- to the complainant paid by her as advance fee ( as the information sought for were not provided to the complainant within the statutory period, no additional fee shall be realized for disclosure of the information ) by the OP2 Sri Swapan Kr. Das, Sports Officer, Sub-Divisional Youth Affairs & Sports Office, Dharmanagar (SPIO) within a period of 7 days from the date of order. The OP 2 has reported compliance of the said order vide his letter No.F.5(16)/SA/SAYS-DMN/07279-81 dated 01.07.2008, which has also been confirmed by the Director, YA&S, Government of Tripura (OP3) vide his No.F.4(43)-DYAS/RTI/2008/5816 dated 04.07.2008 along with the supported documents.

7. In the meantime, the OP2 has provided some information to the complainant vide his letter No.F.5(16)/SYAS-DMN/07/240-242 dated 18.06.2008 under intimation to this Commission, which were however, found to be incomplete. That apart, during the pendency of the present complaint, the OP 2 being the SPIO was not required to furnish any information except under specific direction of this Commission. So, furnishing of the above incomplete information by the OP2 to the complainant is liable to be ignored.

Points for decision:

8. In consideration of the facts and the circumstances of the case, the following points are to be decided:-

- (i) Is the complainant entitled to have access to the information sought for vide her written request dated 17.12.2007?
- (ii) What are the irregularities committed in handling with the written request seeking information by the complainant and the first appeal in issue and if any penalty is to be imposed for those irregularities?



Reasons for decision:

9. Point No.(i): The information sought for by the complainant under her written request dated 17.12.2007 are summarized below:-

- (i) Whether the Flock leader (volunteers) of Bulbul unit under the control of the Tripura State Bharat Scouts and Guides are entitled to get the honorarium from the date of their joining in 1992? If so, what was/is the rate of honorarium?
- (ii) Names of other Bulbul Flock volunteers who were selected along with the complainant on 24.11.1992 at Dharmanagar station.
- (iii) What was the criteria and the basis for appointing casual workers from the post of Flock leader (volunteers)? What is the reason for not selecting the complainant as casual labour along with her colleagues Smt. Nandita Debroy, Smt. Sipra Chakraborty, Sri Basab Nandy and Smt. Anjana Bardhan?

10. Taking into consideration the nature of the information as narrated above, the OPs, which include the head of the public authority and the SPIO, did not raise any objection to the disclosure of the above information. We also do not find any bar under the Act to stand in the way in disclosure of the information sought for by the complainant. It is, therefore, held that the complainant is entitled to have access to the information sought for and the OP2 being the present SPIO is under obligation to provide the information to the complainant, if necessary, by procuring from the custody of the Director of YA&S, Government of Tripura who is also under legal obligation to make all the required information available to the OP2 for disclosure of the same to the complainant free of cost as the information could not be furnished by the concerned SPIO within the statutory period.

11. Point No.(ii): After careful appreciation of the written representations of the OPs 1,2,&3, the facts reveal are :-

(i) that the written request dated 17.12.2007 of the complainant along with the fees of Rs. 20/- was received by the OP2 on 18.12.2007 and as on that date the OP2 was neither SPIO nor SAPIO. So, he sent the said written request with fees to the Director of YA&S, Government of Tripura, Agartala on 05.01.2008, which was received in the office of the latter on 06.02.2008.

(ii) that as on 06.02.2008, Sri M.K.Das, Deputy Director, YA&S in the Directorate of YA&S, Government of Tripura was the designated SPIO of the YA&S Department for the entire state and he was also functioning as the Supervising Officer of the Establishment Section including RTI and Scouts & Guides affairs.

(iii) that the date of lodging the first appeal by the complainant on 05.03.2008, the OP3 was the FAA for the entire YA&S Department and the Deputy Director of YA&S, North Tripura District, Kailashahar was mere the SPIO for that office only.

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(iv) that by notification No.F.4(43)-DYAS/2005/14804-823 dated 25.02.2008 the head of the public authority of the YA&S Department, Government of Tripura designated the OP 2 as the SPIO for the Sub-Divisional YA&S Office, Dharmanagar and the Director of YA&S, Government of Tripura as the FAA for the entire Department.

(v) that the OP1 confessed in his written representation that, although he received the memorandum of first appeal dated 05.03.2008 of the appellant, but did not take any step on it due to his ignorance about the relevant provisions of the Act. Of course, as on that date, he was no more the designated FAA.

(vi) that the written request of the complainant in issue along with the fees sent by the OP2 to the Director of YA&S, Government of Tripura, Agartala was not put up before the OP3 at all by the officials of the said Directorate, for which he could not take the required steps on that in time.

12. Having regard to the facts and circumstances discussed here in above, it is established that the OP 2 had rightly sent the written request in issue along with the fees to the Director of YA&S since he was not the SPIO during the relevant period. However, he had caused some delay in transmission of the written request. Sri M.K.Das, Deputy Director of YA&S, Government of Tripura, who was the SPIO of the YA&S Department for the entire state at the relevant period of time, did not attend at all to the written request in issue although he was under obligation to dispose of the same being the SPIO. OP 1 admitted receipt of the memorandum of first appeal in issue but confessed that he did not take any step for his ignorance of the relevant provisions of the Act. Since, he was not the FAA at that relevant time, he was under obligation to forward the same to the Director of YA&S, Government of Tripura, Agartala who was the FAA. It is also established that the written request in issue along with the fees was not at all put up before the OP3 who was at the helm of all affairs. Thus, we find that there was an absolute mishandling of the written request of the complainant in issue accompanying with fees in the Directorate of YA&S. In order to avoid such occurrence in future, the OP 3 being the head of the Public Authority is required to enquire, identify the officials who were responsible for not attending to the written request in issue in time and take immediate appropriate action against them. Considering the facts and the circumstances of the case, we are not in favour of imposing penalty on any officials. This second point is decided accordingly.

Decision:

13. In fine, the complaint is allowed on contest with the following orders:-

- (i) OP2 being the SPIO shall provide the information sought for by the complainant vide her written request dated 17.12.2007 within a period of 15 days from the date of passing of this judgment and order free of cost. If necessary, the information which are not available in his

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custody shall be procured by him from the custody of the OP3 and the latter being the head of the Public Authority shall render all assistance to the OP2 in this respect.

- (ii) OP3 being the head of the public authority is directed to hold an enquiry into the mishandling of the written request of the complainant in issue and take immediate appropriate action against the officials who were found to be in dereliction of duties.
- (iii) A report of compliance shall be sent to this Commission by the OPs 2 and 3 within a month of passing of this judgment and order.

14. Let copy of this judgment and order be sent to the complainant and the OPs.

15. Pronounced.

Sd/-

(D.K.Daschadhuri)  
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- TIC-04 of 2008-09 / 861-64

Dated, 11.07.2008

Copy to:-

- 1.Smt. Anjana Deb, D/O Sri Abinash Deb, Thana Road, P.O. & P.S.- Dharmanagar, North Tripura ( Complainant ).
- 2.Sri Harendra Ch. Sarkar, Deputy Director of Youth Affairs & Sports, North Tripura District, Kailashahar (OP1).
- 3.Sri Swapan Kumar Das, Sports Officer, Sub-Divisional Youth Affairs & Sports Office, Dharmanagar, North Tripura (SPIO) - OP2.
- 4.Sri S. Bhowmik, Director of Youth Affairs & Sports, Government of Tripura, Agartala (Head of the Public Authority & the First Appellate Authority)-OP3.

(S.C.Saha)  
Secretary

Tripura Information Commission