



IN THE TRIPURA INFORMATION COMMISSION  
P. N. Complex: Gorkhabasti : Agartala

Complaint No 10 of 2009-10.

Sri Hari Sadhan Sen  
Shibnagar (Near Gedu Mia Masjid)  
Agartala : West Tripura  
Phone No- 238- 0051.....Complainant

Vs.

1.Sri D.L. Debnath, Inspector of Schools, Education Inspectorate, Bishalgarh, West Tripura (State Public Information Officer).  
2.Sri Gour Gopal Das, District Education Officer, West District Zonal Office, Kunjaban, Agartala (First Appellate Authority).....Opposite Parties

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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 Sri Hari Sadhan Sen himself.  
For the Opposite Party 1: Sri D.L. Debnath, Inspector of Schools, Education Inspectorate, Bishalgarh, West Tripura (State Public Information Officer).  
For the Opposite Party 2: Sri Gour Gopal Das, District Education Officer, West District Zonal Office, Kunjaban, Agartala (First Appellate Authority).

Date of lodging the complaint: 08.06.2009

Dates of hearing: 04.07.2009 & 16.07.2009

Date of pronouncing the judgment and order: 25.07.2009



## JUDGMENT AND ORDER

### Facts:

1. This complaint arises out of a written application dated 08.06.2009 of Sri Hari Sadhan Sen (here in after referred to as the complainant) received by this Commission on the same date. The case of the complainant is that on 13.03.2009, he submitted a written request accompanied by the requisite application fee to the Inspector of Schools, Education Inspectorate, Bishalgarh, West Tripura being the State Public Information Officer (SPIO) seeking four items of information under the RTI Act, 2005 ( for short the Act ), which are summarized below:-

(i) Copy of order No. F.1(4)/IS-BSL/05-06 dated 10.01.2007 of the Inspector of Schools, Education Inspectorate, Bishalgarh sanctioning leave in favour of Smt. Anju Banik, Assistant Teacher (now retired) along with receipted copy of the acknowledgment of the said letter by Smt. Anju Banik, Assistant Teacher (now retired).

(ii) Copy of the page of despatch register containing the entry of despatching letter No. F.1(4)/IS-BSL/05-06 dated 10.01.2007 of the Inspector of Schools, Education Inspectorate, Bishalgarh to Smt. Anju Banik, Assistant Teacher (now retired).

(iii) Copy of the letter of the Inspector of Schools, Education Inspectorate, Bishalgarh giving reply to the letter No.F.3(P-14)/SE-E(GL)/08 dated 07.11.2008 of the Joint Director, office of the Director of School Education, Government of Tripura.

(iv) Copy of the letter of the Inspector of Schools, Education Inspectorate, Bishalgarh, under which the final TA bill resubmitted on 25.06.2007 by Smt. Anju Banik, Assistant Teacher (now retired) was forwarded to the District Education Officer, West District Zonal Office, Kunjaban, Agartala.

2. Having no response within the statutory period from the concerned SPIO, the complainant submitted a first appeal on 17.04.2009 to the District Education Officer (DEO), West District Zonal Office, Kunjaban, Agartala being the First Appellate Authority (FAA). It is further alleged that the complainant received a copy of the letter No.F. 57(135)-Edn(W)/2007/1264-65 dated 27.04.2009 of the DEO, West District Zonal Office, Kunjaban, Agartala, under which the latter directed the Inspector of Schools, Education Inspectorate, Bishalgarh to provide all the information to the complainant within a period of three days from the date of receipt of the said letter. But, till the date of lodging this complaint, the concerned SPIO furnished no information to the complainant. Hence, this complaint is preferred by the complainant before this Commission seeking appropriate redress available under the Act for non-supply of the information by the concerned authorities. Along with the written complaint, the complainant furnished photocopies of all the relevant papers.

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3. On perusal of the complaint with enclosures, we find adequate materials to take cognizance of a complaint under section 18(1) of the Act and accordingly, it was registered.

4. In response to the summons, the Opposite Party (OP) 1 Sri D.L. Debnath, Inspector of Schools, Education Inspectorate, Bishalgarh, West Tripura and the SPIO and OP 2 Sri Gour Gopal Das, DEO, West District Zonal Office, Kunjaban, Agartala and the FAA both appeared and submitted their respective written representations.

5. On hearing the oral submissions made by the complainant and the OPs 1 and 2 on 04.07.2009 and after perusal of the written complaint and the written representations submitted by the OPs 1 and 2, it was found that the OP1 Sri D.L. Debnath, Inspector of Schools, Education Inspectorate, Bishalgarh being the SPIO did not respond to the written request of the complainant seeking the information within the statutory period of 30 days, nor he complied with the direction dated 27.04.2009 given by the OP 2 being the FAA after hearing the first appeal on 25.04.2009 to furnish all the information to the complainant sought for vide his written request dated 13.03.2009 within three days of receipt of the said direction. OP 1 offered no sort of explanation for his failure to respond to the written request of the complainant seeking the information and also for his failure to comply with the direction of the OP 2 (FAA). This Commission, therefore, was of the prima-facie view that the OP 1 being the SPIO contravened the provisions of section 7(1) of the Act and also committed dereliction of duties by not complying with the direction of the OP 2 (FAA) without any reasonable cause. OP 1 was, therefore, afforded with the opportunity of being heard and showing cause by submitting a written representation as to why he should not be penalized under section 20(1) of the Act. Accordingly, OP 1 Sri D.L. Debnath, Inspector of Schools, Education Inspectorate, Bishalgarh appeared on 16.07.2009 and submitted a written representation. His oral submission was also heard and considered.

6. The complainant also submitted a written rejoinder dated 16.07.2009 on the written representations of the OPs 1 and 2 submitted on 04.07.2009.

**Issues for decision:**

7. In consideration of the facts and the circumstances of the case, the following issues require determination:-

- (i) Did the OP 1 being the SPIO at all provide the information to the complainant in response to his written request dated 13.03.2009? If so, whether it was within the statutory period.
- (ii) To what relief the complainant is entitled?
- (iii) If the OP 1 being the SPIO contravened any provisions of the Act to warrant penalty under section 20(1)? If so, what shall be the quantum of penalty?

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- (iv) Did the OP 2 being the FAA commit any irregularity in deciding the first appeal of the complainant?

**Reasons for decision:**

8. Issues No.(i) & (ii): For the sake of convenience, the first two issues are taken together for discussion. We have carefully gone through the written request dated 13.03.2009 of the complainant, his written complaint with written rejoinder thereto and the written representations of the OPs 1 and 2. We have also taken into consideration the oral submissions placed by the complainant and the OPs 1 and 2.

9. It is admitted fact that the OP 1 being the SPIO received the written request in issue accompanied by application fee on 13.03.2009. It is also undisputed that till 25.04.2009, the OP 1 did not provide any information to the complainant. According to the OP 1, he sent the information to the OP 2 (FAA) on 25.04.2009 endorsing a copy of the said letter to the complainant, which was received by the latter by post on 01.06.2009. OP 1 explained that due to latches on the part of the concerned dealing assistant entrusted for despatching the said letter, the aforesaid letter dated 25.04.2009 was not despatched instantly on 25.04.2009, but was posted to the home address of the complainant on 27.05.2009. He further stated that according to postal record, the said letter was received by the complainant on 01.06.2009, which fact has been suppressed by the complainant. On the other hand, the complainant submitted that the letter dated 25.04.2009 of the OP 1 was addressed to the DEO, West District Zonal Office, Kunjaban, Agartala in response to latter's notice dated 20.04.2009 and it was not at all addressed to the complainant being the information seeker as required under section 7(1) of the Act. Thus, the said letter can not be considered to be a step taken towards providing information under section 7(1) of the Act to the complainant.

10. We have perused the contents of the letter No.F.1(1-RTI)/IS-BSL/06/87(2) dated 25.04.2009 of the OP 1 addressed to the OP 2 (FAA) endorsing a copy of the said letter to the complainant without any enclosures. The contents of the said letter is as follows:-

\*Sir,

In inviting your letter reference cited above, I am submitting herewith the written representation item wise for favour of your kind information and necessary action.

- i) Certified copy of the leave sanction order dated 10.01.2007 and cancelled on 11.01.2007 enclosed.
- ii) The above mentioned copy of the leave sanction order did not despatch in favour of Smt. Anju Banik due to cancellation of the said sanction order (copy enclosed).
- iii) Certified copy of the reply in respect of the letter No.F.3(P-14)/SE-E(GL)/08 dated 07.11.2008 to the Joint Director of School Education are enclosed.

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iv) No LTC bill submitted by Smt. Anju Banik on 25.06.2008 mentioned in the original application form submitted to the SPIO, Education Inspectorate, Bishalgarh. So, forwarding had not done to the District Education Officer."



11. We do quite agree with the argument placed by the complainant that the communication made under letter dated 25.04.2009 of the OP 1 with the complainant was not at all compliance of section 7(1) of the Act. No where, it was mentioned in the said letter that the information provided to the complainant was in response to his written request dated 13.03.2009. Under section 7(5) of the Act and Rule 7 of the Tripura Right to Information Rules, 2008 (for short the Rules), an SPIO is required to make assessment of fees for copies of the documents to be provided to the information seeker and to send notice to the latter asking him/her to make deposit of such fees to the concerned SPIO. But, in the present case, the OP 1 being the SPIO took no such steps at all resulting financial loss to the Government exchequer and thus, he violated the provisions of sub sections (1) and (5) of section 7 of the Act read with Rules 7 and 11 of the Rules. The argument of the OP 1 that he was under impression of full compliance of the relevant provisions of the Act and the Rules and the direction of the OP 2 (FAA) by sending the communication dated 25.04.2009 has no substance at all and thus, not acceptable. So, it can safely be held that the OP 1 being the SPIO provided no information at all to the complainant in response to the letter's written request dated 13.03.2009 as described in paragraph - 1 above.

12. As regards the claim of the complainant about his right to have access to the information, we are to hold that there is no bar in law to allow such claim. OP 2 being the FAA also did find no objection to the disclosure of the information sought for by the complainant. OP 1 claimed to have already furnished the required information on 25.04.2009 to the OP 2 (FAA) as well as to the complainant, which however, this Commission already held to have not fulfilled the requirements of section 7(1) of the Act. After a careful scanning of the description of the information sought for and the information claimed to have been provided by the OP 2, we express our views as follows:-

- (i) Against item -I of the information sought for, the OP 1 stated that he did furnish a copy of the leave sanction order dated 10.01.2007, which was subsequently cancelled on 11.01.2007. On perusal of copy of the said letter, it is seen that on the body of the said letter, the Inspector of Schools, Education Inspectorate, Bishalgarh vertically made an entry 'Cancelled' and put signature below it. Question may arise about the manner of cancellation of the said letter, but fact remains that such record was lying in the custody of the OP 1 and, therefore, supply of copy of such records is considered to be adequate disclosure of the information sought for.
- (ii) The information claimed to have been provided against item - II is considered to be appropriate in view of the discussion made above.
- (iii) The information claimed to have been provided against item - III is also considered to be appropriate and adequate.



- (iv) The reply given by the OP 1 against item –IV of the information sought for is admitted by him to be not appropriate. He explained that he was misled by the date of submission of the LTC bill mentioned in the original application seeking information and he assured the Commission to furnish the information afresh. Record reveals that the contention of the OP 1 that the date of submission of the LTC bill was mentioned as 25.06.08 in the original written request was not correct. It appears from the copy of the written request in issue furnished before this Commission that the date of submission of the LTC bill was mentioned as 25.06.07. So, the OP 1 is under obligation to furnish the copy of the forwarding letter as demanded by the complainant under item –IV of the written request in issue.

Keeping in view the discussions made here in above, we hold that the OP 1 being the SPIO is under obligation to provide all the information afresh to the complainant within the period being specified in the light of the discussions made here in above free of charge since the SPIO could not provide the information to the complainant within the statutory period.

13. Issue No. (iii): As already discussed in deciding the first and second issues, it was found that the OP 1 being the SPIO committed glaring contravention of the provisions of sub sections (1) and (5) of section 7 of the Act and Rules 7 and 11 of the Rules. In his defence, the OP 1 tried to convince this Commission that since he had already provided the information to the complainant under his letter dated 25.04.2009, he was under the impression that he complied with the provisions of section 7(1) of the Act. He further tried to shift his responsibilities to his subordinate staff who was entrusted for despatching the said letter dated 25.04.2009 to the complainant. As regards the first argument, we have already held that the steps taken by the OP 1 was not at all in consonance with the relevant provisions of the Act and the Rules. As regards the second argument, we have also held that endorsing copy of the letter dated 25.04.2009 to the complainant did not fulfill the requirements of section 7(1) of the Act. OP 1 did not offer any explanation for not making assessment of additional fees for providing copies of the documents sought for by the complainant in due time. Considering the facts and the circumstances narrated above, we are constrained to hold that the OP 1 being the SPIO deliberately without any reasonable cause provided no information to the complainant in response to the latter's written request dated 13.03.2009 and thus he is liable to be penalized under section 20(1) of the Act.

14. As regards quantum of the penalty, OP 1 urged before this Commission to take a lenient view since the delay in supplying the information was totally unfortunate and not intentional. It is a first case of non compliance of the provisions of the Act on the part of the OP 1 being the SPIO. We have also considered the fact that the OP 1 was under the wrong conception of law that by endorsing a copy of the letter dated 25.04.2009 sent to the complainant was fulfillment of his obligation under section 7(1) of the Act, which communication was received by the complainant admittedly on 01.06.2009. Thus, for the

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purpose of contravention of the provisions of the section 7(1) of the Act i.e. causing delay in providing the information, we take into consideration the period from the date of making the written request and the date of receiving the communication by the complainant i.e. 80 days (from 13.03.2009 to 01.06.2009) deducting the permissible period of 30 days for providing the information, the amount of delay comes to 50 days. So, OP 1 being the SPIO is required to pay a penalty of Rs. 12,500/- (Rs. 250/- x 50 days) personally.

15. Issue No. (iv): It is admitted by the OP 2 being the FAA that he committed mistakes in deciding the first appeal in issue lodged by the complainant by not giving an opportunity to the complainant of being heard and passing no formal judgment and order. He assured the Commission that henceforth, he will decide the first appeals hearing both the parties after service of notice following the principle of natural justice and also by passing formal judgment and order. Since, the OP 2 being the FAA understood his mistakes and assured this Commission that he will abide by the principle of natural justice in deciding first appeals, we refrained from making any harsh comment in the matter except that he should be more circumspect in future in deciding the first appeals.

**Decision:**

16. In fine, this second appeal is allowed on contest with the following orders:-

- (i) OP 1 Sri D.L. Debnath, Inspector of Schools, Education Inspectorate, Bishalgarh is directed to provide full information to the complainant as required by him under his written request dated 13.03.2009 within a period of 15 days from the date of passing of this judgment and order free of charge in the light of the discussions made in paragraph -12 above since the SPIO could not provide the information to the complainant within the statutory period as prescribed by section 7(1) of the Act.
- (ii) For contravention of the provisions of section 7(1) of the Act, a penalty of Rs. 12,500/- (Rupees twelve thousand five hundred) only is imposed on OP 1 Sri D.L. Debnath, Inspector of Schools, Education Inspectorate, Bishalgarh and the SPIO under section 20(1) of the Act. Sri Debnath is hereby directed to pay the amount of penalty personally and deposit the same to the Government exchequer under the appropriate head of account within a period of 30 days from the date of passing of this judgment and order. A copy of the challan towards deposit of the amount shall be furnished to this Commission forthwith.
- (iii) The Director of School Education, Government of Tripura being the head of the Public Authority is directed to ensure that the amount of penalty is paid by the OP 1 and deposited to the Government exchequer under the appropriate head of account within the period specified above.

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- (iv) OP 1 being the SPIO and the Director of School Education, Government of Tripura being the head of the Public Authority are directed to submit report of compliance of the above orders to this Commission forthwith.

17. Let copy of this judgment and order be sent to the complainant and the OPs. Also send a copy of this judgment and order to the Director of School Education, Government of Tripura being the head of the Public Authority.

18. 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

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Complaint No-10 of 2009-10 / 705-OR

Dated, 25.07.2009

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Copy to:-

- 1.Sri Hari Sadhan Sen, Shibnagar (Near Gedu Mia Maszid), Agartala : West Tripura Phone No - 238- 0051 (Complainant).
- 2.Sri D.L. Debnath, Inspector of Schools, Education Inspectorate, Bishalgarh, West Tripura (State Public Information Officer) - OP 1.
- 3.Sri Gour Gopal Das, District Education Officer, West District Zonal Office, Kunjaban, Agartala (First Appellate Authority) – OP 2.
4. The Director of School Education, Government of Tripura, Agartala (Head of the Public Authority).

  
(S.C.Saha)  
Secretary  
Tripura Information Commission