

# In the Tripura Information Commission

P. N. Complex : Gorkhabasti : Agartala



Complaint No 26 of 2006-07.

Smti Nila Bhattacharjee  
Ramnagar Road No- 7  
Agartala.....

Complainant

Vrs.

1. The Director of Higher Education, Government of Tripura, Agartala (First Appellate Authority).
2. Dr. B. Palit, Joint Director of Higher Education, Government of Tripura, 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: 1. Smti Nila Bhattacharjee  
2. Sri Dhananjay Bhattacharjee

For the Opposite Parties: 1. Sri S. Bhowmik, Director of Higher Education, Govt. of Tripura.  
2. Dr B. Palit, Joint Director of Higher Education, Government of Tripura.  
3. Sri S. Modak, Chairman, TBJEE.

Date of lodging complaint: 16.11.2006

Dates of hearing argument: 02.12.2006 & 08.12.2006

Date of pronouncing judgment: 08.12.2006

## JUDGMENT & ORDER

### Facts:

1. Smti Nila Bhattacharjee ( here in after referred to as the complainant ) submitted a petition to this Commission on 16.11.06 seeking review of the judgment & order dated 07.10.06 passed by this Commission in Appeal No-6 of

2006-07. The petition also includes allegations of not providing the complainant to take assistance of her husband by the Chairman of Tripura Board of Joint Entrance Examination (for short TBJEE) in course of inspection of the documents and also for causing undue harassment to the complainant during inspection of the documents caused by deployment of police personnel and lawyer by the Chairman of TBJEE.

2. Since the petition of the complainant contained request for both review of the judgment & order and complaint against the SPIO, instead of taking cognizance instantly by this Commission of either as review petition or as a complaint, issued notices to the complainant and the Opposite Parties, namely the Director of Higher Education, Government of Tripura (OP No.1) and the Joint Director of Higher Education, Government of Tripura (OP No.2). In response to the notices, the complainant and the OPs appeared before this Commission on 02.12.06. Since the complainant sought two types of relief in the nature of review of the judgment & order and complaint against the SPIO, this Commission found difficulties to decide the two subject matters in one proceeding and asked the complainant to choose any one of the subjects i.e. either review or complaint in one petition for adjudication by this Commission. In response, the complainant submitted a written petition dated 02.12.06 requesting this Commission to treat her application dated 16.11.06 as a complaint and also disclosed that she would submit a separate petition in due course for review. Acting upon the said petition dated 02.12.06 of the complainant, this Commission admitted her petition dated 16.11.06 as a complaint under section 18(1) of the RTI Act, 2005 (for short the Act). The Commission also held that the portion relating to the review matters as narrated in the said petition dated 16.11.06 shall not to be taken into consideration during inquiry into the complaint.

3. The complainant in her complaint dated 16.11.06 alleged that in pursuance of the judgment & order dated 07.10.06 passed by this Commission in Appeal No- 6 of 2006-07, the Chairman of the TBJEE allowed her to inspect the documents on 14.11.06 at 11 A.M. During the course of inspection although she requested the Chairman of the TBJEE to allow her to take assistance of her husband Sri Dhananjay Bhattacharjee in inspecting the documents, but the former did not allow Sri Bhattacharjee to assist her in inspection. It is further alleged that in course of inspection by the complainant, the authorities of the TBJEE deployed two female police constables inside the chamber where the inspection was arranged. One lawyer also remained present during inspection. As a result, the complainant got frightened and could not do the inspection properly. It is also alleged that the Chairman of the TBJEE took her signature on some papers showing that she was fully satisfied with the information allowed her to inspect in pursuance of the judgment & order dated 07.10.06 passed by this Commission in Appeal No-6 of 2006-07. She pleaded that she signed those papers under duress in a state of frightened mind and she did not sign those papers voluntarily. The complainant approached this Commission for allowing her further inspection of the documents through her husband Sri Dhananjay Bhattacharjee.

4. In response to the notice, both the OPs appeared and the OP No.1 submitted a written representation denying the allegations levelled against the Chairman of the TBJEE by the complainant. It is also pleaded that the female



police personnel and the lawyer were kept present during inspection for opening and handling of the important sealed documents of the TBJEE as well as to avoid any legal complications. It is further pleaded by the OP No. 1 that the allegations were made by the complainant against the TBJEE with ill motive and to defame the Chairman of the TBJEE.

5. The complainant has submitted a rejoinder to the representation of the OP No.1. She added in her rejoinder dated 06.12.06 that Rule 9(4) of the Tripura Right to Information Rules, 2005 (for short the Rules) provides a requester to bring with him/her a helper of his/her choice for the purpose of obtaining a sample or making inspection. So, in adherence to the aforesaid provision of the Rules, the complainant should have been allowed to take the assistance of her husband during the inspection of the documents as sought for.

**Point for decision:**

6. The only point to be decided is whether the complainant is entitled to have the assistance of her husband during inspection of the documents as allowed to her by the First Appellate Authority and affirmed by this Commission vide its judgment & order dated 07.10.06 passed in Appeal No-6 of 2006-07.

**Reasons for decision:**

7. We have carefully gone through the complaint petition dated 16.11.06 and the rejoinder dated 06.12.06 of the complainant and also the written representation of the OP No.1. For a better appreciation of the allegation advanced by the complainant, we have also gone through the records of Appeal No-6 of 2006-07 lying with this Commission. It is found in the relevant written request-dated 31.07.06 of the complainant that she mentioned to take assistance of her husband Sri D. Bhattacharjee for seeking inspection. But in her Appeal dated 08.09.06 preferred to this Commission she urged to disclose the information to her in presence of her husband Sri D. Bhattacharjee and her daughter. She did not categorically mention in her Appeal to take assistance of her husband Sri D. Bhattacharjee for the purpose of inspection of the documents. Presence of one does not mean taking assistance of the said person. So, this Commission, considering other aspects of the case, did not interfere with the decision of the First Appellate Authority allowing the complainant and her daughter to inspect the documents. Thus, the fallacy occurred due to misrepresentation of request by the complainant herself. However, since there is specific provision in the Rules of allowing a requester to take assistance of any other person of his/her choice, we are of the view that the complainant is entitled to take assistance of her husband Sri D. Bhattacharjee during the inspection of the documents as sought for.

**Decision:**

8. In fine, the complaint is allowed. The concerned SPIO should allow the complainant and her assistant Sri D. Bhattacharjee for further inspection of the documents sought for as allowed by the Director of Higher Education, Govt. of Tripura being the First Appellate Authority by his order dated 06.09.06 in the Appeal preferred before him and affirmed by this Commission by its judgment &

order dated 07.10.06 passed in Appeal No-6 of 2006-07. It is further directed that during inspection, the complainant and her assistant Sri D. Bhattacharjee should not be allowed to take with them and use any pen with ink for taking notes; if any from the documents to be inspected. However, if necessary, they may use wooden pencil for the said purpose. A responsible officer should remain present on behalf of the SPIO during inspection.

9. Pronounced.

Sd/-  
( D.K.Daschadhuri )  
State Information Commissioner

Sd/-  
( B.K.Chakraborty )  
State Chief Information Commissioner

Authenticated.

(Sudhir Sarkar)  
Secretary  
Tripura Information Commission

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**TRIPURA INFORMATION COMMISSION**

P. N. Complex: Gorkhabasti : Agartala

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Complaint No. 26 of 2006-07/ (061-43

December 08, 2006

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Copy to:

1. Smti Nila Bhattacharjee, Ramnagar Road No- 7, Agartala(Complainant).
- 2.The Director of Higher Education, Government of Tripura, Agartala (First Appellate Authority).
3. Dr. B. Palit, Joint Director of Higher Education, Government of Tripura, Agartala (SPIO).

(Sudhir Sarkar)  
Secretary  
Tripura Information Commission