



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

Appeal No 16 of 2007-08.

Smt. Menaka DebBarma  
W/O Late Brajakishore DebBarma, Retd. Sr. Forest Ranger  
Advisor Choumohni, Krishnanagar  
(Near Kalyan Medical Hall)  
Agartala, Tripura.....Appellant

Vs.

1. Sri C.M.Debbarma, Conservator of Forests, Southern Circle, South Tripura,  
Udaipur (First Appellate Authority).  
2. Sri Arup Ratan Sharma, Divisional Forest Officer, Sadar Forest Division, Agartala  
(State Public Information Officer).....Respondents

In the matter of a second appeal under section 19(3)  
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 Appellant: Sri Dhrubajit Debbarma for and on behalf of the  
appellant.

For the Respondent No.1: Sri C.M.Debbarma, Conservator of Forests, Southern  
Circle, South Tripura, Udaipur (FAA).

For the Respondent No.2: Sri Arup Ratan Sharma, Divisional Forest Officer, Sadar  
Forest Division, Agartala (SPIO).

Date of lodging second appeal : 29.12.2007

Dates of hearing of second appeal: 24.01.2008 and 07.02.2008

Date of pronouncing judgment and order: 27.02.2008

#### JUDGMENT & ORDER

##### Facts:

1. This second appeal under section 19(3) of the RTI Act, 2005 (for short the  
Act) arose out of a memorandum of appeal filed on 29.12.2007 by Smt Menaka

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Debbarma (here in after referred to as the appellant) received by this Commission on the same date.

2. The facts leading to this second appeal are that the appellant made a written request on 18.04.2007 to the Divisional Forest Officer (DFO), Sadar Forest Division, Agartala being the State Public Information Officer (SPIO) seeking four items of information under the Act. In response, the SPIO provided information to the appellant on 05.07.2007. Being dissatisfied with the information provided by the SPIO, the appellant preferred a first appeal on 08.07.2007 to the First Appellate Authority (FAA) in the office of the Conservator of Forests, Southern Circle, Udaipur on the grounds that the information provided by the SPIO were incorrect and misleading. In the meantime, the SPIO on 16.07.2007 provided revised information to the appellant, which according to her was also incorrect. Sri C.M. Debbarma, Conservator of Forests, Southern Circle, Udaipur being the FAA on receipt of the first appeal, served notice upon the appellant to appear on 10.08.2007 fixed for hearing on the appeal. The appellant authorized her son Sri Dhrubajit Debbarma to represent her in the said hearing on the appeal, which was not accepted by the FAA sending a letter to the appellant to that effect. The FAA did not decide the appeal till the date of lodging the present appeal. Hence, the appellant approached this Commission seeking appropriate redress to have correct information in term of her written request dated 18.04.2007.

3. The appellant also submitted a rejoinder on 06.02.2008 after receipt of the written representations of the Respondents wherein the appellant restricted her claim of having access only to the information pertaining to the correct position of recovery made from the salary of Lt. Brajakishore Debbarma, ex. SFR towards 'short realization'.

4. In response to the summons, the Respondent 1- Sri C.M. Debbarma, Conservator of Forests, Southern Circle, Udaipur (FAA) appeared and submitted a written representation. His contention was that the memorandum of appeal was not in form and in absence of any provisions in the Act, he did not consider the request of the appellant and allow her to be represented by her son and the said decision of the FAA was duly communicated to the appellant in writing and that as no further reply was received from the appellant, the appeal could not be disposed of finally by him. Respondent 2- Sri Arup Ratan Sharma, DFO, Sadar Forest Division, Agartala (SPIO) also appeared and submitted two written representations on 24.01.2008 and 07.02.2008. The summary of his written representations are that no incorrect information were provided to the appellant although there were some mistakes in the heads of recoveries and entries made in the service book of Lt. Brajakishore Debbarma, ex. SFR, but if the total recoveries made under two heads of 'short realization' and 'ledger balance' are taken into account together then the misunderstanding would be removed.

5. Considering the facts revealed from the memorandum of appeal with rejoinder thereto and the written representations of the Respondents, the following issues are to be decided: -



Issues for decision:

- i) Was the information provided by the Respondent 2 to the appellant pertaining to the recovery made towards short realization from the salary of Lt. Brajakishore Debbarma, ex. SFR correct and if not, whether the Respondent 2 is under obligation to provide further adequate information on this count?
- ii) Has the Respondent 1 committed irregularities in dealing with the first appeal preferred before him by the appellant on 08.07.2007?

Reasons for decision:

5. Issue No.(i): Among several information sought for by the appellant vide her written request dated 18.04.2007, she confined her claim in the rejoinder to the memorandum of second appeal submitted before this Commission on 06.02.2008 only of having access to the information pertaining to the correct position of recovery made from the salary of Lt. Brajakishore Debbarma, ex. SFR towards 'short realization'. According to her, the total recovery towards short realization entered into the service book was Rs. 27,512/- only, but according to the statement of recovery furnished by the Respondent 2 in response to her request for information, the amount was shown as Rs. 33,792/- only. Thus, an amount of Rs. 6,250/- is found to have been recovered in excess. The above discrepancies give rise to a doubt about the correctness of the information provided by the Respondent 2.

6. The Respondent 2 in his written representation dated 07.02.2008 categorically stated that the recoveries from the salary of Lt. Brajakishore Debbarma, ex.SFR were made against two heads namely, 'short realization' and 'ledger balance'. The amount due to be recovered and actual recoveries made against the above two heads according to the Respondent 2 are described as follows: -

<u>Head of recovery</u>	<u>Due to be recovered</u>	<u>Actual recoveries made</u>
1. Short realization	Rs. 27,542/-	Rs. 33,792/-
2. Ledger balance	<u>Rs. 21,250/-</u>	<u>Rs. 15,000/-</u>
Total	Rs. 48,792/-	Rs. 48,792/-

7. Taking into account the recoveries made against the above two heads together, the total amount due to be recovered and the total amount actually recovered were found to be the same and in fact, there was no excess recovery in aggregate made from the salary of the Lt. Brajakishore Debbarma, ex. SFR, the Respondent 2 submitted. He further added that making entries in the service book, actual amount of recovery due to be made towards 'short realization' was shown. The real position of recoveries was entered in the concerned register. In support of his contention, the Respondent 2 produced the original register before this Commission. After examination by this Commission, keeping



photocopies of the relevant pages with records of this appeal, the original register was returned back to the Respondent 2. On perusal of the entries made in the said register, the contention of the Respondent 2 is found to be correct.

8. After careful appreciation of the written and oral representations made and the documents produced before this Commission by the Respondent 2, we are satisfied that there was no concealment of facts by the Respondent 2. However, in order to remove the inconsistency in making the recoveries, the Respondent 2 being the SPIO should have explained the real position to the appellant supplying copy of the entries made in the concerned register mentioned above. We are, therefore, hold that the Respondent 2 being the SPIO shall provide further information in the form an explanation as discussed above and supplying copy of the relevant pages of the concerned register containing entries of the actual recoveries made in two heads of 'short realization' and 'ledger balance'. This first issue is decided accordingly.

9. Issue No.(ii): It is admitted fact that the Respondent 1 received the memorandum of appeal within the time and fixed up a date for hearing on 10.08.2007. But he did not deliver any judgment and order after hearing the parties namely, the Respondent and the appellant. Although notices were served upon the Respondent and the appellant but for absence of the appellant, he withheld disposal of the appeal. He also admitted that in absence of any provisions in the Act, he did not allow the appellant to be represented by her son in the hearing of the appeal. The above averment of the Respondent 1 vindicates his lack of knowledge about the provisions of the Act. It is the cardinal principle of natural justice that adequate opportunity of representing one's case before the adjudicating authority should be provided and there is no bar to allow a party to be represented by his/her representative duly authorized. So the Respondent 1 committed gross mistake by not allowing the appellant to be represented by her son in the hearing of the first appeal.

10. Secondly, as per provisions of section 19(5) of the Act, onus of justifying denial of any information to a requester lies on the SPIO and not on the requester. So, in absence of the requester either in the hearing of complaint or appeal, his or her case cannot be dismissed for default and in such case the FAA is under obligation to decide the appeal on merit and deliver his judgment and order within the statutory period. The tone of the letter No.F.01/Apeal/RTI/FOR/07-08/698-99 dated 03.08.2007 of the Respondent 1 addressed to the appellant ventilates his hostile attitude towards the appellant (the requester for information), which is not at all in consonance with the spirit of the Act.

11. In view of the discussion made here in above, we are constrained to hold that the Respondent 1 should be more circumspect in future in dealing with the first appeal following strictly the principle of natural justice.

Decision:

12. In fine; the appeal is allowed on contest. The Respondent 2 being the SPIO is directed to provide further information to the appellant in the form of an explanation for discrepancies appeared in the entries made in the service book about the recoveries made from the salary of Lt. Brajakishore DebBarma, ex. SFR towards 'short realization' supplying copies of the relevant pages of the concerned register containing entries showing the actual recoveries made under two heads of 'short realization' and the 'ledger balance' within a period of 10 days from the date of passing of this judgment and order free of cost under intimation to this Commission.

13. Let copy of this judgment and order be sent to the appellant and the Respondents. Also send a copy of this judgment and order to the Principal Chief Conservator of Forests, Government of Tripura 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

Appeal No - 16 of 2007-08/ 196-99

February 27, 2008

Copy to: -

1. Smt. Menaka DebBarma, W/O Late Brajakishore DebBarma, Retd. Sr. Forest Ranger, Advisor Choumohni, Krishnanagar, (Near Kalyan Medical Hall), Agartala, Tripura (Appellant).
2. Sri C.M. DebBarma, Conservator of Forests, Southern Circle, South Tripura, Udaipur (First Appellate Authority).
3. Sri Arup Ratan Sharma, Divisional Forest Officer, Sadar Forest Division, Agartala (State Public Information Officer).
4. The Principal Chief Conservator of Forests Government of Tripura, Agartala, (Head of the Public Authority).

(S.C. Saha)

Secretary

Tripura Information Commission