



TRIPURA INFORMATION COMMISSION

P. N. Complex: Gorkhabasti
Agartala – 799 006

Complaint No. TIC - 20 of 2009-10.

Sri Jiban Kumar Dasgupta
S/O Late Mono Ranjan Dasgupta
C/O Divisional Manager, TFDPC Ltd
North at Kumarghat
North Tripura
Cell Phone No-9436137044.....Complainant

Vs.

1.Sri C.K. Das, Deputy Conservator of Forests (W/L) and the State Public Information Officer, office of the PCCF, Government of Tripura, Agartala.
2.Sri C.M. Debbarma, Chief Conservator of Forests (Headquarter) and the First Appellate Authority, office of the PCCF, Government of Tripura, Agartala.....Opposite Parties

In the matter of the complaint under section 18(1)
of the Right to Information Act, 2005.

PRESENT:

Sri B.K.Chakraborty
State Chief Information Commissioner

For the complainant: The complainant Sri Jiban Kumar Dasgupta himself.

For the Opposite Party No 1: Sri C.K. Das, Deputy Conservator of Forests (W/L), office of the PCCF, Government of Tripura, Agartala (State Public Information Officer).

For the Opposite Party No: 3: Sri C.M. Debbarma, Chief Conservator of Forests (Headquarter), office of the PCCF, Government of Tripura, Agartala (First Appellate Authority).

Date of lodging the complaint: 27.08.2009

Dates of hearing: 17.09.2009 & 30.10.2009

Date of pronouncing the judgment and order: 03.11.2009



JUDGMENT AND ORDER

1. This complaint under section 18(1) of the RTI Act, 2005 (for short the Act) arises out of a written complaint dated 24.08.2009 of Sri Jiban Kumar Dasgupta (here in after referred to as the complainant) sent by speed post and received by this Commission on 27.08.2009. Allegations of the complainant in brief are that Sri C.K. Das, Deputy Conservator of Forests (W/L) and the State Public Information Officer (SPIO), office of the PCCF, Government of Tripura contravened several provisions of the Act to respond to his written request dated 26.05.2008 and also denied the disclosure of the information sought for on the plea of non-traceability of the records. On first appeal dated 18.03.2009, Sri C.M. Debbarma, Chief Conservator of Forests (Headquarter) and the First Appellate Authority (FAA), office of the PCCF, Government of Tripura directed the concerned SPIO on 02.05.2009 to supply the information within 30 days from 25.04.2009, which direction was also frustrated by the concerned SPIO on 23.05.2009 on the same ground of non-traceability of the relevant records. Being aggrieved, the complainant approached this Commission by way of this complaint seeking a direction to the concerned SPIO for providing the information and also to take penal action for contravention of the provisions of the Act. Along with the written complaint, the complainant furnished photocopies of all the relevant papers.
2. On perusal of the written complaint with enclosures, adequate materials are found to take cognizance of a complaint under section 18(1) of the Act and accordingly, it was registered.
3. In response to the summons, Opposite Party (OP) 1, Sri C.K. Das, Deputy Conservator of Forests (W/L) and the SPIO, office of the PCCF, Government of Tripura appeared and submitted a written representation and an additional written representation. OP 2 Sri C.M. Debbarma, Chief Conservator of Forests (Headquarter) and the FAA, office of the PCCF, Government of Tripura also appeared but, submitted no written representation.
4. The complainant submitted a written rejoinder stating that in compliance with the order of the FAA, the direction of the SPIO to get the information from the Tripura Forest Development and Plantation Corporation Ltd (TFDPCL) was in violation of section 6(3) of the Act and that the decisions of the SPIO and the FAA were not given in time as prescribed by the Act.
5. Heard oral submissions made by the complainant and the OPs.
6. It appears that the written request dated 26.05.2008 of the complainant along with application fee in the shape of Indian Postal Order was received in the office of the SPIO on 03.06.2008 while the money receipt for the application fee was issued on 05.07.2008. On receipt of the written request in issue, the SPIO vide his letter dated 22.07.2008 had intimated the complainant that the file containing the records pertaining to the information is of 30 years old and, therefore, asked the complainant to furnish more details about the file so that the same could be searched out. On receipt of the details about the file from the complainant, the SPIO vide his letter dated 31.12.2008 had informed the

complainant that the relevant file of the Forest Department is of 32 years old and could not be traced out and directed the complainant to get the information from the TFDPCCL. This decision of the SPIO was contrary to the provisions of the law. In case, the records pertaining to the information sought for by the complainant were available with the TFDPCCL, it was the responsibility of the SPIO to transfer the written request in issue to the TFDPCCL under section 6(3) of the Act. Instead of doing this, the SPIO should not have asked the complainant to get the information from the TFDPCCL.

7. It appears from the order dated 02.05.2009 of the FAA passed in the first appeal that the SPIO undertook to search out the file for disclosure of the information. Therefore, it was unfair on the part of the FAA to direct the SPIO to supply the certified copy of Note No- 47 of file No- 2-17(G)/Estt/For-76 of the Forest Department to the complainant within 30 days from 25.05.2009 without ascertaining the existence of the above file either in the custody of the SPIO or the concerned public authority. On receipt of the said order of the FAA, the SPIO vide his letter dated 23.05.2009 had intimated the complainant that the said file is not available in the office of the PCCF being the head of the public authority. This means that in compliance with the assurance given before the FAA, the SPIO had searched the relevant file, but the same could not be traced out. Therefore, the allegation of the complainant that the SPIO did not comply with the order dated 02.05.2009 of the FAA does not stand.

8. In course of hearing of the complaint, it transpired that there was scope of further search in the office of the PCCF, Government of Tripura to trace out the file containing the note, copy of which was sought for by the complainant under his written request in issue and as requested by the OP 1 by submitting a petition, time was allowed to him for making further search to trace out the file pertaining to the information and to submit findings of the same to this Commission. The SPIO vide his additional written representation dated 16.10.2009 has submitted that a thorough search was conducted to trace out the file No- 2-17(G)/Estt/For-76, but the same could not be traced out. On examination of the photocopies of the relevant portion of the File Index Register of the office of the PCCF, Government of Tripura submitted by the SPIO, it appears that the above file is not listed there. It is beyond the scope of the Act that the SPIO should be compelled to create any information for disclosure. However, during hearing, the OP 1 has submitted verbally that the file pertaining to the information sought for by the complainant may be available in the office of the TFDPCCL. Therefore, the SPIO is under obligation to transfer the written request in issue to the SPIO of the TFDPCCL under section 6(3) of the Act forthwith.

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

- (i) OP 1 Sri C.K. Das, Deputy Conservator of Forests (W/L), office of the PCCF, Government of Tripura and the SPIO did not handle the written request for information dated 26.05.2008 of the complainant appropriately. He is, therefore, warned to be more careful and circumspect in future in dealing with the written request for information

complainant that the relevant file of the Forest Department is of 32 years old and could not be traced out and directed the complainant to get the information from the TFDPCCL. This decision of the SPIO was contrary to the provisions of the law. In case, the records pertaining to the information sought for by the complainant were available with the TFDPCCL, it was the responsibility of the SPIO to transfer the written request in issue to the TFDPCCL under section 6(3) of the Act. Instead of doing this, the SPIO should not have asked the complainant to get the information from the TFDPCCL.

7. It appears from the order dated 02.05.2009 of the FAA passed in the first appeal that the SPIO undertook to search out the file for disclosure of the information. Therefore, it was unfair on the part of the FAA to direct the SPIO to supply the certified copy of Note No- 47 of file No- 2-17(G)/Estt/For-76 of the Forest Department to the complainant within 30 days from 25.05.2009 without ascertaining the existence of the above file either in the custody of the SPIO or the concerned public authority. On receipt of the said order of the FAA, the SPIO vide his letter dated 23.05.2009 had intimated the complainant that the said file is not available in the office of the PCCF being the head of the public authority. This means that in compliance with the assurance given before the FAA, the SPIO had searched the relevant file, but the same could not be traced out. Therefore, the allegation of the complainant that the SPIO did not comply with the order dated 02.05.2009 of the FAA does not stand.

8. In course of hearing of the complaint, it transpired that there was scope of further search in the office of the PCCF, Government of Tripura to trace out the file containing the note, copy of which was sought for by the complainant under his written request in issue and as requested by the OP 1 by submitting a petition, time was allowed to him for making further search to trace out the file pertaining to the information and to submit findings of the same to this Commission. The SPIO vide his additional written representation dated 16.10.2009 has submitted that a thorough search was conducted to trace out the file No- 2-17(G)/Estt/For-76, but the same could not be traced out. On examination of the photocopies of the relevant portion of the File Index Register of the office of the PCCF, Government of Tripura submitted by the SPIO, it appears that the above file is not listed there. It is beyond the scope of the Act that the SPIO should be compelled to create any information for disclosure. However, during hearing, the OP 1 has submitted verbally that the file pertaining to the information sought for by the complainant may be available in the office of the TFDPCCL. Therefore, the SPIO is under obligation to transfer the written request in issue to the SPIO of the TFDPCCL under section 6(3) of the Act forthwith.

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

- (i) OP 1 Sri C.K. Das, Deputy Conservator of Forests (W/L), office of the PCCF, Government of Tripura and the SPIO did not handle the written request for information dated 26.05.2008 of the complainant appropriately. He is, therefore, warned to be more careful and circumspect in future in dealing with the written request for information





- strictly in adherence to the relevant provisions of the Act and the Tripura Right to Information Rules, 2008 (for short the Rules).
- (ii) OP 1 Sri C.K. Das, Deputy Conservator of Forests (W/L), office of the PCCF, Government of Tripura being the SPIO is directed to transfer the written request dated 26.05.2008 of the complainant to the SPIO of the TFDPC, Agartala under section 6(3) of the Act within a period of 5 days from the date of passing of this judgment and order.
- (iii) The SPIO in the TFDPC, Agartala, on receipt of the above written request for information from the SPIO in the office of the PCCF, Government of Tripura shall dispose of the same within a period of 30 days from the date of passing of this judgment and order strictly as per provisions of the Act and the Rules.

10. Let copy of this judgment and order be sent to the complainant, the OPs 1 & 2, and the SPIO in the TFDPC, Agartala.

11. Pronounced.

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- 20 of 2009-10 / 1186-185

Dated, 03.11.2009

Copy to:-

- 1.Sri Jiban Kumar Dasgupta, S/O Late Mono Ranjan Dasgupta, C/O Divisional Manager, TFDPC Ltd, North at Kumarghat, North Tripura (Complainant).
- 2.Sri C.K. Das, Deputy Conservator of Forests (W/L) and the State Public Information Officer in the office of the PCCF, Government of Tripura, Agartala - OP 1.
- 3.Sri C.M. Debbarma, Chief Conservator of Forests (Headquarter) and the First Appellate Authority in the office of the PCCF, Government of Tripura, Agartala - OP 2.
4. Sri P.K. Das, Executive Director and the State Public Information Officer of the Tripura Forest Development and Plantation Corporation Ltd, Abhoynagar, Agartala.

(S.C.Saha)
Secretary

Tripura Information Commission