



TRIPURA INFORMATION COMMISSION

P. N. Complex: Gorkhabasti
Agartala - 799 006

Complaint No. TIC - 22 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: 19.09.2009 & 30.10.2009

Date of pronouncing the judgment and order: 06.11.2009

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 in responding to his written request dated 15.01.2008 seeking several items of information under the Act. Being dissatisfied with the steps taken by the concerned SPIO, the complainant preferred a first appeal on 17.03.2008 to the First Appellate Authority (FAA), office of the PCCF, Government of Tripura who disposed of the same on 19.05.2008 directing the concerned SPIO to supply the information within the specified time. But, the concerned SPIO failed to comply with the said direction of the FAA. Therefore, the complainant made an application to the FAA about the non-compliance of the direction of the latter, on which the FAA issued further direction on 22.01.2009 to the concerned SPIO for providing the information. Even after sending several reminders on the part of the complainant, the concerned SPIO did not respond. So, the complainant lastly submitted another appeal to the FAA, which was though scheduled for hearing on 22.08.2009, but the concerned FAA did not dispose of the said first appeal till the date of submission of this complaint. Hence, the complainant approached this Commission by way of this complaint seeking a direction to the SPIO for providing full information as sought for by him under his written request dated 15.01.2008, to refund the additional fees improperly charged on him by the concerned SPIO and also to take penal action against the officials 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 and submitted a written representation. The complainant submitted a written rejoinder reiterating that in compliance with the order of the FAA, the SPIO did not supply the required information.

4. The information sought for by the complainant under his written request in issue, the information provided by the SPIO from time to time and the dissatisfaction of the complainant are summarized below:-

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Item number of information sought for.	Nature of information sought for	Information supplied by the SPIO	Nature of complaint of the complainant
i)	In 1996, the Director of Forest Education by a letter addressed to the PCCF, Tripura requested for posting of one SFS trainee of TFDPC (Copy enclosed at Page-4). Decision taken in this regard is required along with orders, file notes and communications to TFDPC Ltd.	There was no sponsor of candidate from the Forest Department, Government of Tripura during 1994-96 batch at the SFS College, Coimbatore. Hence, no decisions/orders/file notes etc. are available. The Ministry of Environment and Forest Communication dated 08.08.1996 appears to have not been in this office.	Information not supplied by the SPIO
ii)	Recruitment Rules of Tripura Forest Service with time to time modification/relaxation from 1996 to 2007 are required.	Copy of the Recruitment Rules of the erstwhile DFO notified by Appointment & Services Department, Govt. of Tripura notification No.F.20(14)-GA/61 dated 19.01.1963 and Forest Department Notification No.F.2-2(6)/For-73/Part-III/15195-239 dt. 31.03.1982 being Recruitment Rules for the post of Assistant Conservator of Forests and copy of the TFS Rules (as compiled upto 23.04.2007) are enclosed.	As per the complainant, the Recruitment Rules as amended in the year 2005 vide TFS 5 th amendment made on 28.09.2005 was withheld.
iv)	In case of promotion, what is the minimum basic training required for without any further training for following categories of Forest staff - Circular/orders required as to: a) Up to which extent a Forest Guard Trained person can progress i.e.	TFS Rules, 1988 provides the details of condition for promotion to the post TFS Gr-II including recruitment and training. a) Copy of the Recruitment Rules of	Information is withheld.




	Forester, Ranger or ACF – Information required. b) Up to which extend a trained Forester can be promoted – i.e. up to Ranger, ACF or IFS – Information required. c) Up to which extent a trained Ranger can be promoted i.e. ACF, IFS, if there are any persons who had been promoted to IFS cadre from a trained Ranger, one of such copy of appointment is required.	Forest Guards, Head Forest Guards, Forester and Forest Ranger are enclosed. b) Copy of the Recruitment Rules of Forest Ranger and Tripura Forest Service Rules, 1988 have already been enclosed. Copy of the IFS appointment by Promotion Regulation, 1966 is enclosed. c) Copy of the available appointment notifications in respect of Sri Subhendu Sekhar Das to the IFS vide No. 17013/12/94-IFS-II dated 02.02.1995 is enclosed.	
viii)	Mr. M.K. Biswas, erstwhile Conservator of Forests did also pass from the SFRC. Whether he secured honours mark during the training – Information is required.	Information is not available.	Information is withheld.
ix)	Whether any person from the Forest Department, Tripura has secured honours marks from SFRC so far since 1948. Name of the person & year of passing – Information is required.	Information is not available.	Information is withheld.
x)	Professional training to the Forest personal like FG, Forester, Ranger or SFS training imparted to the Forest personal at various institutes/colleges – whether the person undergone training sponsored by the Forest Department required to be selected/appointed to the posts before he undergone training meant for that post or not. Information is required.	Training to the Foresters and Forest Guards is conducted at the state run Forest Training School at Siphahijala (now at Hatipara). According to the current Recruitment Rules for the post of Forest Ranger and TFS, candidates are being trained as in-service candidates on being selected by the TPSC. Copies of Recruitment Rules are already enclosed.	Information is denied.
xi)	Whether any sponsorship to SFS training has ever been extended to any person in Forest Department without selecting to Class-II Posts. If so, name of the person sent by the Forest Department without selecting him to	Information is not available.	Information is denied.



	Class-II post along with copy of order - Information is required. .		
xii) b)	TFDPC had been working on PF, RF land for raising rubber plantation at Kalamchora under Forest Division since 1980. Status of the land transferred, allotted, leased out etc. Order of the Forest Department in favour of the TFDPC regarding status of land as aforesaid at Kalamchora is required for the period from 1980 to 1985	Information may be furnished by the land section of this office.	Information is denied.
xiii)	TFDPC has raised rubber plantation in Sadar Sub Division and North, South and Dhalai District. Whether the Forest Department has extended lease to all of those plantations prior to or after creation of plantations or not. Detailed orders, notifications are required for all the plantations of TFDPC up to 1985.	Information may be furnished by the land section of this office.	Information is denied.
xiv)	All the areas of land so far allotted, leased out, transferred to TFDPC for rubber plantation with effect from 1976 to 1985. copy of orders indicating status of land, mouja no., CS plot no etc are required.	Information may be furnished by the land section of this office.	Information is denied.
xvi)	Whether a Range officer in the Forest Department can be posted to an office controlled by the Beat officer for years together on regular basis and vice versa. If so, copy of the order made in any case is required.	Forest Department notification No.12(156)/For/Estt-85/6392-6823 dt. 02.05.1987 in regard to the posting, duties and responsibilities of the Forest Rangers and Sr. Forest Rangers in the Forest Department is enclosed.	Information is not given.
xvii)	TFDPC is the pioneer public sector undertaking for rubber plantation in Tripura. TFDPC, TRPC and PGP are all controlled by the Forest Department officials. Whether all ACFs of TFDPC, PGP and TRPC are controlled by the Forest Department. Orders related to this effect in each of the organization are required separately. If any of these organizations has SFS equivalent post held by directly recruited candidates or promoted candidates of the respective organizations - Name of the organization is required.	Information is not available.	Information is denied.

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Perused the written complaint in issue, the information furnished by the SPIO from time to time, orders issued by the FAA, the written representation and the additional written representation of the OP 1, the written representation of the OP 2 and the written rejoinder of the complainant. Also considered the oral submissions made by the complainant and the OPs 1 and 2. After careful consideration of all these records and the facts and the circumstances of the case, the complaint stands disposed of with the following findings and orders:-

(i) The Act does not empower the FAA to entertain any second appeal on the same issue and to enter upon any correspondences on the decision given by him. For denial to have access to the information, the complainant had the opportunity to lodge complaint before this Commission under section 18(1) of the Act. The FAA cannot accept either any second appeal or review his own order passed in the first appeal. Sri C.M. Debbarma, Chief Conservator of Forests (Headquarter), office of the PCCF, Government of Tripura and the FAA in accepting the second appeal and entertaining the correspondences on the decisions given by him in the first appeal has acted without having any valid mandate of the Act. Sri C.M. Debbarma, Chief Conservator of Forests (Headquarter), office of the PCCF, Government of Tripura being the FAA is, therefore, directed to be more careful in future in dealing with the first appeal and related RTI matters strictly adhering to the provisions of the Act and the Tripura Right to Information Rules, 2008.

(ii) Against item –(i), it appears that the SPIO has intimated the complainant that no candidate was sponsored by the Government in the Forest Department to the SFS College, Coimbatore during the year 1994-1996 and hence, no record as to the decisions, orders, file notes etc are available in his office. Therefore, the information supplied by the SPIO appears to be satisfactory and the complainant does not deserve any further information.

(iii) Regarding item – (ii), the SPIO appears to have not supplied the 5th amendment of the Recruitment Rules of Tripura Forest Service made in the year 2005. The SPIO has enclosed the required information along with his additional written representation submitted before this Commission, copy of which was also supplied to the complainant. However, the SPIO should supply the information to the complainant against item – (ii) afresh within a period of 15 days from the date of passing of this judgment and order.

(iv) As regards the information under item – (iv), the SPIO appears to have supplied (a) copies of the Recruitment Rules for the posts of Forest Guard, Head Forest Guard, Forester and Forest Ranger, (b) Tripura Forest Service Rules, 1988 which govern the appointment of forest officials and (c) IFS (Appointment by Promotion) Regulation, 1966. Information supplied by the SPIO appears to be adequate and, therefore, the complainant does not deserve any further information.





(v) As regards information under item – (viii), the stand taken by the SPIO is not acceptable because personal file/records are not required to be sent to the Accountant General (AG), Tripura for finalization of pension. Even the service book which is sent to the AG, Tripura along with pension proposal is also returned to the concerned Head of office after the pension matters are finalized. The SPIO is, therefore, directed to make further search to locate the personal records of Mr. M.K. Biswas, retired Conservator of Forests and intimate the result of search made by the SPIO to the complainant within 15 days from the date of passing of this judgment and order.

(vi) Regarding item – (ix), the information furnished by the SPIO is not complete. The information 'Not available' furnished by the SPIO is not acceptable. Further explanation as to the status of the information was required to be furnished by the SPIO. The SPIO is, therefore, directed to make further search to make the information available and to supply the same to the complainant within a period 15 days from the date of passing of this judgment and order.

(vii) Regarding information sought for under item – (x), it appears that the information supplied by the SPIO to the complainant is satisfactory and, therefore, the complainant does not deserve further information in this regard.

(viii) In regard to item – (xi), the information furnished by the SPIO is not complete. The information 'Not available' furnished by the SPIO is not acceptable. Further explanation as to the status of the information was required to be furnished by the SPIO. The SPIO is, therefore, directed to make further search to make the information available and to supply the same to the complainant within a period 15 days from the date of passing of this judgment and order.

(ix) As regards information sought for under items – (xii) (b), (xiii) & (xiv), the action of the SPIO amounts denial of information. It was unfair on the part of the SPIO to intimate the complainant that these information would be supplied by the land section in the office of the PCCF as the land section is functioning under the control of the same public authority and the OP 1 is the designated SPIO for that section too. It was the responsibility of the SPIO to collect the information as sought for by complainant from the land section and furnish the same to the complainant. The SPIO has however, disclosed that the required information are furnished along with his additional written representation submitted before this Commission, copy of which was also given to the complainant. The SPIO is, therefore, directed to collect the said information from the land section in the office of the PCCF and furnish the same to the complainant afresh within a period of 15 days from the date of passing of this judgment and order.

(x) Regarding item – (xvi), the SPIO appears to have supplied the required information, which are considered to be adequate and satisfactory. So, the complainant does not deserve to have access to any further information.

(xi) As regards the information sought for under item – (xvii), the SPIO has stated to have furnished the required information along with his additional written

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representation submitted before this Commission, copy of which was also given to the complainant. The SPIO is however, directed to supply the said information afresh to the complainant within a period of 15 days from the date of passing of this judgment and order.

(xii) Since, the SPIO failed to supply the required information to the complainant within the statutory period prescribed by the Act, the same should now be supplied free of cost.

(xiii) The SPIO has demanded and collected an amount of Rs. 170/- from the complainant as additional fees for supply of the information sought for by the complainant. The complainant agitated that the SPIO demanded and collected the additional fees arbitrarily and illegally. On perusal of the records, it appears that the complainant submitted his written request for information on 15.01.2008 and the SPIO supplied the information on 12.03.2008 after expiry of 57 days without having any sanction of law. Since, the SPIO failed to supply the information within the time limit specified under section 7(1) of the Act, he had no authority to demand and collect the additional fees. The SPIO is, therefore, directed to arrange for refund of Rs. 170/- to the complainant so collected as additional fees within a period of 30 days from the date of passing of this judgment and order.

(xiv) The complainant demanded that the SPIO has contravened several provisions of the Act and, therefore, he should be penalized under section 20(1) of the Act. The SPIO submitted that many of the information sought for by the complainant are as old as 20-25 years and, therefore, considerable time was taken for their searching. The SPIO further submitted that he undertook vigorous search and many of the information could, therefore, be supplied to the complainant. The SPIO has also stated that he is quite applicant friendly and always in favour of the disclosure of the information. He could not supply the information to the complainant in time as considerable time was taken to locate the old records pertaining to the information. Therefore, I do not find any mala fide intention on the part of the SPIO to withhold the information and I also do not see any cause to hold the SPIO that he knowingly furnished incorrect, incomplete and misleading information and, therefore, it is not a fit case for imposition of penalty.

6. Compliance of the above orders shall be reported to this Commission by the SPIO forthwith.

7. Let copy of this judgment and order be sent to the complainant and the OPs 1 and 2. Also send a copy of this judgment and order to the PCCF, Government of Tripura being the head of the Public Authority.

8. 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- 22 of 2009-10 / 1205-208

Dated, 06.11.2009

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, office of the PCCF, Government of Tripura, Agartala – OP 1.
- 3.Sri C.M. Debbarna, Chief Conservator of Forests (Headquarter) and the First Appellate Authority, office of the PCCF, Government of Tripura, Agartala – OP 2.
- 4.The Principal Chief Conservator of Forests, Government of Tripura, Agartala (Head of the Public Authority).

(S.C.Saha)
Secretary

Tripura Information Commission