



TRIPURA INFORMATION COMMISSION

P. N. Complex: Gorkhabasti
Agartala – 799 006

Appeal No. TIC - 06 of 2009-10.

1. Sri Babul Biswas,
C/O Sri Kalipada Biswas,
Radhanagar : AgartalaAppellant

Vs.

1. Sri M.L. Dey, Director, Social Welfare & Social Education, Government of Tripura, Agartala (First Appellate Authority).
2. Smt. Sanchita Roy, Deputy Director, Social Welfare & Social Education, Government of Tripura, Agartala (State Public Information Officer).
..... Respondents

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 appellant: The appellant Sri Babul Biswas himself

For the Respondent No 1: Sri M.L. Dey, Director, Social Welfare & Social Education, Government of Tripura, Agartala (First Appellate Authority).

For the Respondent No. 2: Smt. Sanchita Roy, Deputy Director, Social Welfare & Social Education, Government of Tripura, Agartala (State Public Information Officer).

Date of lodging the second appeal: 15.06.2009

Dates of hearing: 07.07.2009, 28.07.2009 & 05.08.2009

Date of pronouncing the judgment: 24.08.2009



JUDGMENT AND 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 second appeal dated 15.06.2009 of Sri Babul Biswas (here in after referred to as the appellant) received by this Commission on the same date. Brief facts leading to this second appeal are that the appellant submitted on 17.04.2008 a written request to the State Public Information Officer (SPIO) in the office of the Director, Social Welfare & Social Education (SWSE), Government of Tripura seeking certain items of information under the Act. In response, Smt. Sanchita Roy, Deputy Director, SWSE, Government of Tripura being the SPIO provided the information to the appellant on 04.05.2009. Being dissatisfied with the information provided by the concerned SPIO, the appellant preferred a first appeal on 08.05.2009 to the Director, SWSE, Government of Tripura being the the First Appellate Authority (FAA) who decided the said first appeal on 06.06.2009 giving instruction to the concerned SPIO to supply copy of the memo No. F.85 (108)-SW/DC/06(L)/10559(6) dated 06.02.2007 and advertisement No. F. 85(108)-SW (DC)/06 dated 17.01.2007. In compliance with the said order of the FAA, the concerned SPIO provided the information to the appellant. But, the appellant being dissatisfied with the decision given by the concerned FAA, preferred this second appeal before this Commission seeking appropriate redress to have access to the appropriate information. Along with the memorandum of second appeal, the appellant furnished photocopies of all the relevant papers.
2. On perusal of the memorandum of appeal with enclosures, it was found in form and within time and accordingly, it was registered as a second appeal under section 19(3) of the Act.
3. In response to the summons, Respondent 1 Sri M.L. Dey, Director, SWSE, Government of Tripura and the FAA and Respondent 2 Smt. Sanchita Roy, Deputy Director, SWSE, Government of Tripura and the SPIO appeared and submitted their respective written representations.
4. Heard oral submissions placed by the Respondents 1 and 2 and the appellant.

Issue for decision:

5. In consideration of the facts and the circumstances of the case, the following issues require decision:-
 - (i) Does the order dated 06.06.2009 passed by the concerned FAA in Appeal No-4/DSW/2009-10 suffer from any impropriety?
 - (ii) Is the appellant entitled to have any further information as sought for by him under his written request dated 17.04.2009?

C/S



Reasons for decision:

6. Issue Nos. (i) & (ii): Both the issues are taken together for discussion for the sake of convenience. We have carefully gone through the memorandum of second appeal with enclosures, which include the decision dated 04.05.2009 of the Respondent 2 being the SPIO and the decision dated 06.06.2009 of the concerned FAA and the written representations of the Respondents 1 and 2. We have also considered the oral submissions made by the appellant and the Respondents 1 and 2.

7. Under his written request dated 17.04.2009, the appellant sought for two items of information, which may be summarized as below:-

- (i) Copy of the letter of the Government of Tripura empowering the Selection Committee to appoint disabled persons in 2007.
- (ii) Clarification about maintenance of 3% reservation for the physically challenged persons, namely, visually impaired, locomotor disabled and hearing impaired persons, keeping in view the provisions of Section 33 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, in course of filling up of 233 posts where visually impaired got 117 posts, locomotor disabled got 101 posts and hearing impaired got only 15 posts.

8. In response to the above request, Respondent 2 being the SPIO intimated the appellant on 04.05.2009 that the Interview Board(s) constituted in connection with recruitment of physically handicapped persons through Special Recruitment Drive meant for the persons with disabilities had only selected the names of eligible physically handicapped persons based on the available vacant posts of Group -C and Group-D as collected from the various Departments of the State Government through conducting interviews and submitted the panel list to the Departmental Authority for consideration. The Departmental authority had considered the panel list and sponsored the names of the eligible candidates to the concerned departments in order to recruit them in Group C & D posts. But, The Selection Committee in question had not made any appointment of the selected candidates by itself. Hence, the question of giving power by the State Government to the Selection Committee to appoint the physically challenged persons during the year 2007 does not arise at all. Respondent 2 further intimated that the Department had actually initiated an exercise to fill up the existing vacant posts lying in the various Departments of Government of Tripura meant for the physically challenged persons. So, the question of maintaining 3% Roaster in respect of physically handicapped candidates meant for fresh recruitment does not arise in this respect.

9. The then FAA decided the first appeal dated 08.05.2009 of the appellant by an order passed on 06.06.2009 giving instruction to the Respondent 2 being the SPIO to supply copy of the memo No. F.85(108)-SW/DC/06(L)/10559(6) dated 06.02.2007 and advertisement No. F. 85(108)-SW(DC)/06 dated 17.01.2007 to the appellant. Respondent 2 being the SPIO complied with the said order of the FAA

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in due course, which is also admitted by the appellant in course of hearing of this second appeal.

10. After careful appreciation of the facts narrated above, we find that the information provided by the Respondent 2 as against item -1 of the information sought for was appropriate. However, by supplying the copy of the relevant letter dated 06.02.2007 constituting Selection Committee may be considered to be supplementary information in confirmation of the fact that the Selection Committee was not constituted for appointment of the eligible candidates but, only for selection of panel for consideration and appointment by the concerned departments of the State Government being the appointing authorities. So, in our view the information provided as against item -1 was adequate and appropriate.

11. As regards the information sought for under item -2 as mentioned in the paragraph - 7 above, we are of the view that mere supplying a copy of the advertisement cannot satisfy the requirement of the appellant. Respondent 1 being the FAA and the head of the public authority in his written representation dated 27.07.2009 stated that the General Administration (P&T) Department, Government of Tripura had been declared as the Nodal Department for the purpose of implementation of reservation in Government services etc. for the physically handicapped persons and that the Tribal Welfare (TW) Department and Scheduled Castes Welfare (SCW) Department were notified by the Government to maintain records/roster in respect of reservation for the persons with disabilities. The appellant in fact, wanted the clarification about maintenance of three percent reservation for three categories of physically challenged persons at the rate of one percent each as prescribed in Section 33 of the Persons With Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act, 1995. Since, the Departments of TW and SCW have been vested with the task to maintain records/roster in respect of reservation for persons with disabilities, we are of the view that the above two Departments are the appropriate authorities to furnish the information required by the appellant under item -2. So, Respondent 2 being the SPIO was under obligation to transfer the part of the written request pertaining to the second item of information to the public authorities in the Departments of TW and SCW for supplying the information to the appellant.

12. Having regard to the facts discussed here in above, we hold that the decisions taken by both the Respondents 2 and 1 on 04.05.2009 and 06.06.2009 respectively in respect of the information sought for under item -2 by the appellant were erroneous and liable to be set-aside. The Respondent 2 being the SPIO is required to transfer the part of the written request in issue in respect of the second item of information to the public authorities in the Departments of TW and SCW for taking appropriate action on the said written request according to law.

CS



Decision:

13. In fine, the appeal is partially allowed on contest with the following orders:-

- (i) The decisions of the Respondents 2 and 1 taken on 04.05.2009 and 06.06.2009 respectively in respect of the information under item -2 of the written request in issue are hereby set-aside.
- (ii) The Respondent 2 Smt. Sanchita Roy, Deputy Director, SWSE, Government of Tripura being the SPIO is directed to transfer the written request dated 17.04.2009 of the appellants in respect of the information sought for under item -2 as described in the said written request to the Public Authorities of the Departments of TW and SCW within a period of five days from the date of passing of this judgment and order for their disposal according to law.

14. Let copy of this judgment and order be sent to the appellants and the Respondents 1 and 2. Also send a copy of this judgment and order to the Director, Tribal Welfare Department, Government of Tripura, Agartala and the Director, Scheduled Castes Welfare Department, Government of Tripura, Agartala.

15. Pronounced.

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

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

Authenticated

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S.C.Saha

(S.C.Saha)
Secretary
Tripura Information Commission



Tripura Information Commission
P. N. Complex: Gorkhabasti : Agartala

Appeal No TIC - 06 of 2009-10

1865-69

Dated, 24.08.2009

Copy to:-

1. Sri Babul Biswas, C/O Sri Kalipada Biswas, Radhanagar : Agartala (Appellant),
2. Sri M.L. Dey, Director, Social Welfare & Social Education, Government of Tripura, Agartala (First Appellate Authority) – Respondent 1.
3. Smt. Sanchita Roy, Deputy Director, Social Welfare & Social Education, Government of Tripura, Agartala (State Public Information Officer)- Respondent 2.
4. The Director, Tribal Welfare Department, Government of Tripura, Agartala.
5. The Director, Scheduled Castes Welfare Department, Government of Tripura, Agartala.

S.C. Saha
(S.C.Saha)
Secretary

Tripura Information Commission