

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



Complaint No 25 of 2006-07.

Sri Arun Bikash Chakma
C/O Vien Gien Institute
Near Kalachakra Maidan
P.O.- Bodhgaya, District- Gaya
Bihar- 824231Complainant

vs.

1.The Director of Welfare for Scheduled Tribes, Government of Tripura (First Appellate Authority).
2. The Joint Director of Welfare for Scheduled Tribes, Government of Tripura, P.N. Complex, Gorkhabasti,Agartala (SPIO).....Opposite Parties

In the matter of a complaint under section 18
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: None.

For the Opposite Parties: 1. Sri L. Darlong, Director of Welfare for Scheduled Tribes, Govt. of Tripura (First Appellate Authority).
2. Sri Pratap Chakma, Joint Director of Welfare for Scheduled Tribes, Govt. of Tripura (SPIO).

Date of lodging complaint: 30.11.2006

Dates of hearing argument: 06.01.2007

Date of pronouncing judgment & order: 06.01.2007

JUDGMENT & ORDER

Facts:

1. This complaint arises out of a petition dated 22.11.06 of Sri Arun Bikash Chakma (here in after referred to as the complainant) received by speed post by this Commission on 30.11.06. It is alleged that the complainant sent an



application dated 13.06.06 by registered post to the State Public Information Officer (SPIO) in the Directorate of Welfare for Scheduled Tribes, Government of Tripura seeking some information under the RTI Act, 2005 (for short the Act). Having no response from the SPIO, the complainant sent an appeal petition dated 04.10.06 by speed post to the Director of Welfare for Scheduled Tribes, Government of Tripura being the First Appellate Authority (FAA) seeking redress. The FAA informed the complainant by a letter dated 28.10.06 that neither any application nor any application fee as mentioned in the appeal petition had been received by the SPIO from the complainant and, therefore, the SPIO could not furnish any information. Accordingly, the FAA disposed of the appeal without giving any redress. The complainant got a written confirmation from the Director of Postal Services, Agartala that Bodhgaya RL No A 212 dated 13.06.06 addressed to the SPIO was delivered on 05.07.06 to the addressee. Now, the complainant approached this Commission to take proper action against the erring SPIO and the FAA for mis-handling and improper dealing with his application for information.

2. Finding adequate materials to constitute reasonable ground for the complainant to lodge the complaint under section 18 of the Act, the petition is registered as a complaint under section 18(1) of the Act.

3. In response to the summons, Sri L. Darlong, the Director of Welfare for Scheduled Tribes, Government of Tripura (FAA) and Sri Pratap Chakma, Joint Director of Welfare for Scheduled Tribes, Government of Tripura (SPIO) appeared before the Commission on 06.01.2007 and the FAA submitted a written representation stating that in the meantime the SPIO sent a notice dated 21.12.2006 to the complainant intimating his readiness to furnish the information on payment of Rs.10/- only as application fee and Rs. 10/- only as other charges within 7(seven) days of the receipt of the letter.

4. The complainant remained absent on the date of hearing without any step despite notice.

Point for decision :

5. Considering the facts and circumstances of the case, the only point to be decided is whether or not any irregularity has been committed in handling the written request and the first appeal by the SPIO and the FAA respectively.

Reasons for decision :

6. Although the SPIO had denied to have received the written request dated 13.06.06 of the complainant seeking information, but the certificate given by the Director of Postal Services, Agartala proves that the letter dated 13.06.06 of the complainant addressed to the SPIO was delivered on 05.07.06 to the latter's office. We find no reason to disbelieve the certificate of the Director of Postal Services, Agartala and hold that the written request of the complainant for information had reached in the office of the SPIO, which might have been misplaced, and for that the complainant cannot be blamed.



7. The FAA admitted to have received the appeal petition dated 04.10.06 of the complainant. However, the appeal petition did not accompany the copy of the written request dated 13.06.06 of the complainant. In such a situation, the FAA should have asked the complainant to furnish a copy of the written request dated 13.06.06 and after getting the copy of such request, he should have decided the appeal dated 04.10.06 of the complainant on merit. Failure to do so on the part of the FAA has no doubt caused injustice to the complainant. However, since the Opposite Parties have expressed their readiness to furnish the information basing upon the copy of the written request dated 13.06.06 of the complainant as received by them along with summons of this Commission, we are of the view that the Opposite Parties i.e. the SPIO and the FAA had no mala fide intention of not disclosing the information to the complainant. So, we do not consider the failure of the Opposite Parties to follow the procedure laid down in the Act as an appropriate ground for taking any penal action against them. However, we like to put it in record that both the SPIO and FAA should be more circumspect in future in dealing with any written request seeking information and the first appeal so that no harassment is caused to a requester for information under the Act.

8. We have taken note of the representation of the FAA and to hold that charging application fee and further fee by the SPIO for disclosure of the information sought for is not at all justified for the reasons that the complainant has already sent application fee in cash by post along with the written request dated 13.06.06 which fact could not be rebutted by the Opposite Parties and that the SPIO could not dispose of the written request for information within the statutory period of thirty days. So, the complainant is entitled to have the information free of cost according to law. Hence, the decision of the SPIO charging application fee and further fee is liable to be set aside.

Decision:

9. In fine, the complaint is disposed of with the following orders: -

(i) The decision of the SPIO as communicated by Sri K.L. Bhowmik, Assistant Director of Welfare for Scheduled Tribes, Government of Tripura (SPIO) to the complainant vide letter No.F.9(1)/TW/RTI/Appeal/06/22726 dated 21.12.06 charging application fee of Rs. 10/- and further fee of Rs. 10/- is hereby set aside.

(ii) The SPIO shall furnish appropriate information to the complainant on the basis of the written request dated 13.06.06 of the complainant, copy of which has been sent to him by this Commission along with the summons dated 18.12.2006, within a period of 7(seven) days from the date of passing of this judgment and order free of cost.

11. Send a copy of this judgment and order to the complainant, Sri L. Darlong, Director of Welfare for Scheduled Tribes, Government of Tripura(FAA)



and Sri Pratap Chakma, Joint Director of Welfare for Scheduled Tribes, Government of Tripura (SPIO).

12. Also send a copy of this judgment and order to the Commissioner & Secretary to the Government of Tripura, Tribal Welfare Department (Head of the Public Authority).

13. Pronounced.

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

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

Authenticated.

(Sudhir Sarkar)
Secretary

Tripura Information Commission

TRIPURA INFORMATION COMMISSION

P. N. Complex: Gorkhabasti : Agartala

Complaint No. 25 of 2006-07/15-18

January 06, 2007

Copy to:

1. Sri Arun Bikash Chakma, C/O Vien Gien Institute, Near Kalachakra Maidan P.O.- Bodhgaya, District- Gaya, Bihar- 824231(Complainant)
2. The Director of Welfare for Scheduled Tribes, Government of Tripura (First Appellate Authority).
3. The Joint Director of Welfare for Scheduled Tribes, Government of Tripura, (SPIO).
4. The Commissioner & Secretary to the Government of Tripura, Tribal Welfare Department (Head of the Public Authority).

(Sudhir Sarkar)
Secretary

Tripura Information Commission