

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



Appeal No 8 of 2006-07.

Mr. M.A. Khan, Retd. PCCF
66- Prakash Vihar, Dharampur
P.O.- Araghar, Dehradun
Uttanchal - 248001.....Appellant

Vs

1) Sri L.H. Darlong, Additional Secretary to the Government of Tripura, GA (AR/Vig) Department (First Appellate Authority).
2) Sri M.L.Das, Under Secretary to the Government of Tripura, GA (AR/Vig) Department (SPIO).....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: None.

For the Respondents: 1. Sri L.H. Darlong, Additional Secretary to the Govt. of Tripura, GA (AR/Vig) Department.
2. Sri Maniklal Das, Under Secretary to the Government of Tripura, GA (AR/Vig) Department.

Date of lodging complaint: 18.12.2006

Date of hearing argument: 08.01.2007

Date of pronouncing judgment: 11.01.2007

JUDGMENT & ORDER

Facts:

1. This is a second appeal under section 19(3) of the RTI Act, 2005 (for short the Act) as received from Mr. M.A. Khan, Retd. PCCF (here in after referred to as the Appellant) on 18.12.2006 directed against the decision dated



21.11.2006 of the First Appellate Authority, GA (AR/Vig) Department, Government of Tripura given in Appeal No-4 / GA (AR) of 2006/85.

2. The facts leading to this second appeal are that the Appellant made a written request on 08.10.2006 to Sri M.L. Das, State Public Information Officer (SPIO), General Administration (AR /Vig) Department, Government of Tripura for providing the following two information as per provision of the RTI Act, 2005: -

- (i) Whether at all the IFS Association, Tripura Unit submitted any allegation/ representation against the requester Mr. M.A. Khan dated 06.02.2005 addressed to the Chief Minister, Tripura. If so, a copy of the said allegation/ representation showing the receipt by the Chief Minister may be sent to the requester.
- (ii) How and in what circumstances, the IFS Association's office copy was sent to the requester in support of the fact that the said Association's Tripura Unit submitted a representation to the Chief Minister.

3. In response to the above request, Sri M.L. Das, Under Secretary, GA (AR/Vig) Department, Government of Tripura (SPIO) vide his letter No.F.3 (22)-GA (AR)/06/2304 dated 01.11.2006 provided the following information: -

- (i) The allegation/ representation dated 6th February 2005 as addressed to the Chief Minister was received by the Government and a copy of the same has already been provided to you.
- (ii) The allegation dated 06-02-2005 submitted by IFS Association, Tripura Unit has been received along with the allegation dated 07-02-2005 submitted by the Tripura Forest State Service Officer's Association.

4. Having been aggrieved with the decision of the SPIO, the Appellant preferred the first appeal on 11.11.06 to the Additional Secretary, GA (AR/Vig) Department, Government of Tripura being the First Appellate Authority on the ground that the information provided by the SPIO were totally irrelevant and the Appellant urged for issuing appropriate order for supplying the specific information as requested by the Appellant.

5. On receipt of the memorandum of appeal dated 11.11.06, Sri L.H. Darlong, Additional Secretary, GA (AR/Vig) Department, Government of Tripura being the First Appellate Authority (here in after referred to as the FAA) passed an order on 21.11.06 on the said memorandum of appeal stating that the petition submitted by the Appellant was not admitted on the grounds that the SPIO, GA (AR/Vig) Department had supplied complete/ full information to the Appellant. The FAA also sent copy of the said order to one Dr Ashraf Khan and the concerned SPIO. Being dissatisfied with the decision dated 21.11.06 of the FAA, the Appellant preferred this second appeal to this Commission with a request to issue appropriate order so as to allow him the access to the information sought for.



6. In response to the summons, the FAA and the SPIO appeared on 08.01.2007 and submitted a joint representation dated 08.01.2007 on the appeal. The Appellant opted to remain absent on the date of hearing.

Issues for decision:

7. Considering the facts and circumstances of the appeal, the following issues are to be decided: -

- (i) Are the information supplied by the SPIO in response to the request dated 08.10.2006 of the Appellant appropriate and sufficient?
- (ii) Whether or not the order dated 21.11.06 passed by the FAA on the Appeal No-4/GA (AR) of 2006/85 is maintainable?
- (iii) To what relief the Appellant is entitled?

Reasons for decision:

Issue No-(i)

8. We have carefully perused the written request dated 08.10.06 of the Appellant, the information provided by the SPIO on 01.11.06, the order dated 21.11.06 of the FAA, memorandum of appeal dated 03.12.06 of the Appellant submitted to this Commission and the joint written representation dated 08.01.2007 of the FAA and the SPIO. We have also considered the oral submissions made by the FAA in course of hearing. We find that the first information provided by the SPIO in reply to the first information sought for by the Appellant is not clear and specific. It leaves room for ambiguity. So, the SPIO is required to provide information afresh in respect of the said information removing ambiguity. However, we find that the information provided as against the second item of information sought for is quite appropriate. It leaves no room for further clarification. Thus, the first issue is decided accordingly.

Issue No(ii)

9. The decision dated 21.11.06 of the FAA suffers from several infirmities. Firstly, it is noticed that the FAA without issuing any notice to the Appellant decided the appeal in violation of the principle of natural justice. Secondly, when a memorandum of appeal is preferred, it is the duty of the FAA to examine it as to its admissibility namely whether or not there was ground of appeal and if it was within the period of limitation. The memorandum of appeal dated 11.11.06 of the Appellant submitted to the FAA is found to contain the ground for preferring the first appeal. Moreover, it was also within time as the said appeal was directed against the decision dated 01.11.06 of the SPIO. So, non-admission of the appeal by the FAA on the ground that the concerned SPIO has supplied the complete/full information to the Appellant is found to be erroneous and against the spirit of the Act. Thirdly, the FAA also committed a serious mistake by not sending the copy of the decision on the appeal to the



Appellant. Instead of sending the copy of the order to the Appellant, the FAA sent the same to one Dr. Ashraf Khan, a stranger to the appeal.

10. In view of the above infirmities committed by the FAA in disposing of the memorandum of appeal dated 11.11.06 of the Appellant, the order dated 21.11.06 of the FAA is liable to be set aside.

Issue No (iii)

11. Taking the discussion made in the proceeding paragraphs into account, we are to hold that the Appellant is entitled to have specific and clear information against the first item of information as sought for under written request dated 08.10.06 from the SPIO.

12. Before parting with the judgment, we are constrained to observe that the FAA and the SPIO have not understood their duties and responsibilities in dealing with the request for information and the first appeal respectively. According to the scheme of the Act, both FAA and the SPIO have distinct powers and responsibilities for disclosure of the information to a requester. So, while they are asked to appear before the Commission and submit written representation on any appeal or complaint, they are supposed to submit such written representation separately and not jointly. Because, they are accountable for their independent decision either on the request or on the appeal. But in the instant case, the FAA and the SPIO have committed a serious mistake by submitting a joint representation dated 08.01.2007 on the appeal. The FAA and the SPIO are, therefore, directed to be more diligent and sincere in responding to any summons issued from this Commission in future.

Decision:

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

- (i) The order dated 21.11.06 passed by the FAA in Appeal No-4/ GA (AR) of 2006 /85 is hereby set aside.
- (ii) Sri M.L.Das, Under Secretary, GA (AR/Vig) Department, Government of Tripura (SPIO) is directed to furnish information in specific and clear terms as against the Item No-1 of the written request dated 08.10.06 of the Appellant as sought for within a period of 10(ten) days from the date of passing of this judgment and order without charging further fee.

14. Let copy of this judgment and order be sent to the Appellant, the Respondents- Sri L.H. Darlong, Additional Secretary to the Government of Tripura, GA (AR/Vig) Department (First Appellate Authority) and Sri M.L. Das, Under Secretary to the Government of Tripura GA (AR/Vig) Department (SPIO)



free of cost. Also send a copy of this judgment and order to the Commissioner & Secretary to the Government of Tripura, GA (AR) Department being the head of the Public Authority.

15. Pronounced.

Sd/-
(D.K.Daschaudhuri)
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

Appeal No. 8 of 2006-07/ 26-29

January 11, 2007

Copy to:

1. Mr. M.A.Khan, Retd. PCCF, 66- Prakash Vihar, Dharampur, P.O.- Araghar, Dehradun, Uttranchal- 248001(Appellant).
2. Sri L.H. Darlong, Additional Secretary to the Government of Tripura, GA (AR/Vig) Department (First Appellate Authority).
3. Sri M.L. Das, Under Secretary to the Government of Tripura, GA (AR/Vig) Department (SPIO).
4. The Commissioner & Secretary to the Government of Tripura, GA (AR) Department (Head of the Public Authority).


(Sudhir Sarkar)
Secretary
Tripura Information Commission