



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

Appeal No 5 of 2006-07.

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

Vs

The Commissioner & Secretary, GA(AR/Vig) Department, Government of
Tripura, Agartala(First Appellate Authority).....Respondent

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.Daschadhuri
State Information Commissioner

For the Appellant: None.

For the Respondent : Sri L.H. Darlong, Additional Secretary, GA(AR)
Department, Govt. of Tripura, Agartala.(SPIO)

Date of lodging complaint: 05.09.2006

Dates of hearing argument: 20.09.2006 & 23.09.2006

Date of pronouncing judgment: 23.09.2006

JUDGMENT & ORDER

Facts:

1. This is a second appeal under section 19(3) of the RTI Act, 2005 (here-in-after referred to as the Act) preferred on 05.09.2006 by Mr. M.A. Khan, Retd. PCCF (here-in-after referred to as the Appellant). The facts leading to this appeal are that the Appellant made a written request dated 22.02.2006 to Sri L.H. Darlong, Additional Secretary, GA (AR) Department, Government of Tripura (State Public Information Officer- for short SPIO) for supply of four items of information including a copy of the letter No.F.11 (3)-GA (AR)/05/1161 dated 21.6.2005 of GA (AR) Department. Disclosure of the said information was



denied by the SPIO by his letter dated 13.3.2006 as per provisions of section 8(1) (h) and 8(1)(j) of the Act. Against the said decision of the SPIO dated 13.3.2006, the Appellant preferred first appeal to the Commissioner & Secretary, GA (AR/Vig) Department, Government of Tripura being the First Appellant Authority (here-in-after referred to as the Respondent) on 02.06.2006. The Respondent decided the first appeal on 22.7.2006 and upheld the decision of the SPIO on the ground that the letter relates to an investigation against some government servant and it is personal information. Against the aforesaid decision of the Respondent, the Appellant approached this Commission with this second appeal on the following grounds:

- (i) The above letter is merely an instruction for enquiry into some allegations and it has relation with public activity and its disclosure does not attract any of the provisions of section 8 of the Act;
- (ii) The enquiry has already been done by Sri Rajeswar Rao whom the letter was addressed to and the State Government has already initiated the follow up action;
- (iii) A copy of the enquiry report submitted by Sri Rao pursuant to the above letter has already been supplied to the Appellant.

2. The Appellant requested this Commission to issue appropriate direction for supply of copy of the said letter dated 21.6.2006 of GA(AR) Department, Government of Tripura.

3. In response to the summons, Sri L.H.Darlong, Additional Secretary, GA(AR) Department, Government of Tripura, duly authorized by the Respondent, appeared and submitted written statement justifying the decision of the Respondent given on 22.7.2006 in Appeal No. 2 of GA(AR) of 2006. It is further stated that the Government has already decided to draw up a disciplinary proceeding against the Appellant on the basis of the enquiry report submitted by Sri Rajeswar Rao. It is also admitted by the Respondent that a copy of the said enquiry report was supplied to the Appellant before the decision of disciplinary proceeding was taken by the Government.

4. As called for, the Respondent produced a copy of the letter No.F.11(3)-GA(AR)/05/1161 dated 21.6.2005 for inspection of the Commission.

Issue to be decided :

5. The only issue to be decided is, if the decision of the Respondent suffers from any infirmity and if the Appellant is entitled to access to the information sought for.

Reasons for decision:

6. We have carefully gone through the memorandum of appeal including the papers submitted therewith, the copy of the decisions of the SPIO and the Respondent as well as the representations of the Respondent. We have also inspected the copy of the letter in issue produced by the Respondent. The admitted factual position is that as per instruction of the GA (AR) Department,



Government of Tripura given under letter No.F.11 (3)-GA (AR)/05/1161 dated 21.6.2005, an enquiry was conducted by Sri Rajeswar Rao and on completion of the said enquiry, report was submitted to the Government based on which, the latter has already decided to draw up disciplinary proceeding against Mr. M.A.Khan, Retired PCCF, Tripura- the present Appellant. It is also admitted that before taking such decision, the copy of the said enquiry report was supplied to the Appellant.

7. Both the Respondent and the SPIO turned down the request of the Appellant to supply the copy of the letter in issue under section 8(1)(h) and 8(1)(j) of the Act. This means, disclosure of the letter in issue will impede the investigation process and that it is personal information having no public activity. While, the enquiry into the allegations has already been concluded by Sri Rajeswar Rao on the strength of the Government instruction issued under the letter in issue and a copy of the said enquiry report has been furnished to the Appellant, it is not intelligible as to how disclosure of the letter in issue will impede the process of investigation and also how it is personal information without having any public interest/ public activity. During hearing, the Respondent could not establish these contention of the First Appellate Authority. We are of the view that in the given circumstances stated above, there is no scope of causing any impediment to any investigation in the event of disclosure of the letter in issue, which was absolutely related to the enquiry already completed, nor this is a personal information without having any public interest/ public activity. So, the provisions of section 8(1)(h) and 8(1)(j) of the Act are not applicable in this case. Hence, we find no reasonable ground to deny the request of the Appellant for supply of copy of the letter in issue. The decisions of the Respondent as well as the SPIO suffer from legal infirmity and are liable to be set aside.

Decision :

8. In fine, the appeal is allowed on contest with the following orders:

(i) The decision of the Respondent passed on 22.7.2006 in Appeal No. 2 of GA (AR) of 2006 denying disclosure of copy of letter No.F.11 (3)-GA (AR)/05/1161 dated 21.6.2005 of GA (AR) Department, Government of Tripura to the Appellant is hereby set aside.

(ii) The SPIO in the GA (AR) Department, Government of Tripura is directed to furnish a copy of the letter No. F.11 (3)-GA (AR)/05/1161 dated 21.6.2005 of GA (AR) Department, Government of Tripura to the Appellant within a period of 10(ten) days from the date of passing of this judgment and order free of cost as the same was not disclosed within the period prescribed in the Act.

9. Furnish the copy of this judgment and order free of cost to the Appellant, the Respondent (being the First Appellate Authority), the SPIO in the GA (AR) Department, Government of Tripura and the Commissioner & Secretary, GA (AR) Department, Government of Tripura being the head of the Public Authority.

10. 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. 5 of 2006-07/ 825-28

September 23, 2006

Copy to:

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



(Sudhir Sarkar)
Secretary
Tripura Information Commission