

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



Complaint No 08 of 2007-08.

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

Vs

Sri M.L.Das, Under Secretary to the Government of Tripura, GA (AR)
Department (SPIO)..... Opposite Party

In the matter of a 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 Complainant: None.

For the Opposite Party: Sri M.L.Das, Under Secretary to the Government of
Tripura, GA (AR) Department (SPIO).

Date of lodging complaint: 03.05.2007

Dates of hearing argument: 31.05.2007 & 25.06.2007

Date of pronouncing judgment: 17.07.2007

JUDGMENT & ORDER

Facts:

1. This complaint under section 18(1) of the RTI Act, 2005 (for short the Act) arises out of a petition bearing No-2007-08/12-Complaint dated 20.04.2007 of Mr. M.A. Khan, Retd. PCCF (here in after referred to as the complainant) received by this Commission on 03.05.2007.

2. The complainant alleged that the Opposite Party (OP) Sri M.L. Das, Under Secretary to the Government of Tripura, GA (AR) Department being the State Public Information Officer (SPIO) has not provided appropriate and specific information within the stipulated period in compliance with the direction of this Commission given in its judgment and order dated 11.01.2007 passed in Appeal No-9 of 2006-07 and thus violated the orders of the Commission, which caused harassment and hardship to the complainant.



Hence, the complainant urged before this Commission for issuing necessary direction for disclosure of the specific information as sought for and also to impose penalty upon the SPIO as per provision of section 20 of the Act. The complainant furnished the photocopy of the information provided by the OP.

3. On perusal of the complaint, adequate materials are found to take cognizance of the complaint under section 18(1) of the Act.

4. In response to the summons, the OP submitted a written representation on 31.05.2007 denying the allegations brought by the complainant against him.

5. The complainant sent by post a rejoinder dated 16.06.2007 to his complaint after receiving copy of the written representation of the OP.

6. Heard submissions made by the OP. The complainant opted to remain absent in course of hearing.

Points for decision:

7. In consideration of the complaint with rejoinder and the written representation of the OP, the following points require decision: -

- (i) Did the OP being the SPIO comply with the order dated 11.01.2007 of this Commission passed in Appeal No-9 of 2006-07 and if there had been any violation of the said direction on his part?
- (ii) Is the OP liable to be penalized under section 20(1) of the Act for contravention of any provision of the Act?

Reasons for decision:

8. Point No.(i): The broad facts leading to the present complaint is that referring to the representation bearing No-2006-07/19-21-Reports/dated 23.04.2006 of the complainant addressed to the Commissioner & Secretary to the Government of Tripura, GA(AR) Department, the complainant made a written request on 05.10.2006 to the OP being the SPIO in the GA(AR) Department, Government of Tripura to provide the following information :-

- (i) Whether any action has been taken on the letter of the complainant bearing No-2005-06/19-21-Reports dated 23.04.2006 addressed to the Commissioner & Secretary to the Government of Tripura, GA (AR) Department. If so, the details thereof may be disclosed. If not, the reason for the inaction may also be disclosed.
- (ii) In the circumstances given in Para-3 of the above referred letter, the reason for not bringing IPS officers like the then DFO, Teliamura, DFO, Sadar and the Conservator of Forests, Southern Circle to book may be disclosed.

9. In response, the OP being the SPIO provided information on 01.11.2006. Being dissatisfied, the complainant preferred a first appeal with the First Appellate Authority (FAA) in the GA (AR) Department, Government of Tripura on

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10.11.2006, which was however dismissed. Being aggrieved with decision of the FAA, the complainant preferred a second appeal to this Commission which was registered as Appeal No.9 of 2006-07 and the same was decided by this Commission by delivering a judgment and order on 11.01.2007 with the orders, inter-alia, as follows: -

"Sri M.L. Das, Under Secretary to the Government of Tripura, GA (AR/ Vig) Department (SPIO) shall disclose appropriate and specific information to the Appellant on the basis of latter's written request dated 05.10.2006 afresh in the light of the discussion made in paragraphs 11 and 12 above within a period of 10(ten) days form the date of passing of this judgment and order free of cost."

10. The relevant paragraphs No-11 and 12 of the judgment and order as referred to the above decision of the Commission is re-produced below for convenience: -

"11. We have carefully perused all the papers placed before this Commission by both the parties, namely, the written request dated 05.10.2006 of the Appellant, the information furnished by the SPIO on 01.11.2006 in response to the written request for information, the order dated 21.11.2006 passed by the FAA in Appeal No-5/GA (AR) of 2006/87, the memorandum of appeal dated 08.12.2006 with enclosures submitted by the Appellant to this Commission and the joint 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. After critical examination of all the papers, we are of the view that the information furnished by the SPIO to the Appellant were not appropriate and categorical to the request for information, which is also admitted by the FAA and the SPIO. The first item of information as sought for by the Appellant vide his request dated 05.10.2006 pertains to representation of the Appellant dated 23.04.2006 addressed to the Commissioner & Secretary to the Government of Tripura, GA (AR) Department, a copy of which has been annexed to the memorandum of appeal as Annexure -2. In fact, the Appellant wanted to know whether any action was contemplated against Sri V.K. Bahuguna, the then CCF. But in the information furnished by the SPIO, there is no mention whether or not any action was contemplated against Sri Bahuguna, the then CCF. The Appellant did not seek the information as furnished by the SPIO on this count. So, the Appellant is quite justified in agitating that no information was furnished against the first item of information sought for.

12. Under the second item of information, the Appellant desired to know the reasons for not bringing the then DFO Teliamura, DFO Sadar and CF Southern Circle to book for allegedly allowing transportation of illegally felled trees from Jeolcherra Range to Agartala without proper transport pass and without payment of full royalty. In response to the requirement, the SPIO informed the Appellant that such question can be replied to by the Government. Thus, the response of the SPIO in this respect is inappropriate and evasive. In the present case, in response to the request for both the information sought for by the Appellant, the SPIO's replies contained in letter No.F.3 (22)-GA (AR)/06/2303 dated 01.11.2006 were not appropriate and categorical to the information as sought for by the

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Appellant under his written request dated 05.10.2006. So, the SPIO is required to furnish the information afresh in the light of the discussion made here in above. This first issue is decided accordingly"

11. In compliance with the said direction of this Commission, the OP being the SPIO provided the following information to the complainant on 20.01.2007:-

"1. Your original letter no.2005-06/19-21 Reports dated 23rd April, 2006 was not received in the GA(AR) Department. But subsequently a copy of it has been received and has been put up before the Authority. Action on the letter will be taken as soon as the file comes back with decision of the Authority.

2. Regarding para no-3 of your letter dated 23rd April, 2006 it is stated that the letter under reference has been put up to the authority as stated above. Information can be given when the file comes back with the decision of the authority."

12. Again on 03.04.2007, in continuation of the above information, the OP provided further information to the complainant as follows: -

"(i) Regarding para-2 (i) of your letter dated 23-04-06 it is to be stated that information in respect of reply to Assembly Question cannot be given to any person to make it a debate outside the house.

(ii) It is not known why the DFO, Teliamura, DFO, Sadar and CF Southern Circle have not been brought in the report of Sri Rao.

Regarding para-3 of your letter it is stated that this is not covered of the definition of 'information' or 'Record' as given in the RTI Act."

13. The OP being the SPIO finally on 18.05.2007, in supersession of the earlier two letters dated 21.01.2007 and 03.04.2007 stated above, furnished the following information to the complainant in seriatim: -

"(i) Your letter no 2005-06/19-21-Reports dated 23rd April, 2006 addressed to the Commissioner & Secretary, GA(AR) Department, Government of Tripura has duly been examined and considered by the State Govt. It has been decided that no information in respect of reply to any Assembly Question can be given to any person to make it a debate outside the house.

(ii) In absence of any specific allegation against the DFO, Teliamura, DFO Sadar, CF Southern Circle in the enquiry reports of Sri Rao, there exists no decision of the State Govt. to initiate disciplinary action against them."

14. The complainant agitated that the OP being the SPIO failed to follow the principle laid down by this Commission in the judgment and order dated 17.02.2007 passed in Appeal No-13 of 2006-07. The contention of the complainant is not acceptable for the reason that the facts of Appeal No-13 of 2006-07 are different from that of Appeal No-9 of 2006-07 and, therefore, the views expressed by this Commission in the former appeal cannot be used construing as precedence to the latter appeal. In the former appeal, the honesty and integrity of the complainant was involved in the reply to the Assembly Question in issue giving rise to his natural right to know the information on



what basis his name appeared in the reply. But in Appeal No-9 of 2006-07, the complainant sought for information pertaining to the allegation of corruption against another officer and the reasons why his name did not appear in the reply to the Assembly Question. So, in the present case, the OP being the SPIO was under no obligation to abide by the principle laid down by this Commission in Appeal No-13 of 2006-07 regarding entering into debate on the reply given to an Assembly Question outside the Assembly house. Therefore, the information provided by the OP as against first item of information sought for is found to be appropriate and specific.

15. The SPIO while responding to a request for information is to rely on the current status of the records pertaining to the information sought for and he is not required to create anything on his own. So, the information furnished by the OP as against second item of information sought for is also found to be quite specific and appropriate.

16. Having regard to the facts discussed here in above, we are of the view that the OP being the SPIO has correctly provided the information to the complainant in full compliance with the directions of this Commission given on 11.01.2007 in Appeal No-9 of 2006-07. The contention of the complainant of non-compliance of Commission's direction is found to be not tenable. The first issue is decided accordingly.

17. Point No.(ii): The OP was under obligation to provide specific and appropriate information within 10 days of the date of delivery of the judgment and order dated 11.01.2007 passed by this Commission in Appeal No-9 of 2006-07 i.e .by 21.01.2007. Records reveal that the first intimation to the complainant regarding the process of providing information was communicated by the OP on 21.01.2007 and the information in the final form was provided on 18.05.2007 superceding the earlier communications made on 21.01.2007 and 03.04.2007. So, the endeavor of the OP to provide the information clearly reflects his bonafide intention to comply with the directions of this Commission in issue. In absence of any malafide intention of the OP being the SPIO, we do not consider it wise to impose any penalty upon the OP for causing delay in providing the information as it is supported by adequate and just reasons. So, the second point is decided in the negative.

Decision:

18. In fine, the complaint is dismissed on contest without any relief to the complainant.

19. Let copy of this judgment and order be sent to the complainant and the OP free of cost. Also send a copy of this judgment and order to the Secretary to the Government of Tripura, GA (AR) Department being the head of the Public Authority.

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20. Pronounced.

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

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. 08 of 2007-08/ 686-88

July 17, 2007

Copy to:

1.Mr. M.A. Khan, Retd. PCCF, 66- Prakash Vihar, Dharampur, P.O.- Araghar, Dehradun, Uttarakhand - 248001(Complainant)

2.Sri M.L.Das, Under Secretary to the Government of Tripura, GA (AR) Department (SPIO)-OP.

3. The Secretary to the Government of Tripura, GA (AR) Department (Head of the Public Authority).


(S.C.Saha)
Secretary

Tripura Information Commission