

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



Complaint No 29 of 2006-07.

Dr. Ashraf Khan
66- Prakash Vihar, Dharampur
P.O.- Araghar, Dehradun
Uttanchal - 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: 1. Sri M.L. Das, Under Secretary to the Government
of Tripura, GA(AR) Department

Date of lodging complaint: 26.03.2007

Date of hearing argument: 11.05.2007

Date of pronouncing judgment: 25.05.2007

JUDGMENT & ORDER

Facts:

1. This complaint arises out of an application bearing No. 2006-07/128-
Appeal dated 21.03.2007 of Dr. Ashraf Khan (here in after referred to as the
complainant) received by this Commission on 26.03.2007.

2. It is alleged by the complainant that this Commission passed an order on
08.02.2007 in Appeal No-11 of 2006-07 as brought by the complainant
directing the State Public Information Officer (SPIO) of the GA(AR) Department,
Government of Tripura to provide specific and relevant information to the
complainant against the second item of information sought for under his
written request dated 09.08.2006 within a period of fifteen days from the date of

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passing the judgment and order. The particulars of the information sought for were: -

"In spite of the facts that the Supreme Court vide order dated 15th January 1998 in Para 7 in the Writ Petition(C) No. 202 of 1995 has directed that the concerned Deputy Conservator of Forests / Divisional Forest Officer shall be responsible to ensure that only legal timber is processed in the saw mill and that large quantity of timber reached the Industrial Estate at Agartala, which are converted into sawn timber and also sold by the mill owner, while the DFO, Sadar Forest Division has not been brought to book. The reason for doing so."

In compliance with the aforesaid order of this Commission, the SPIO in the GA(AR) Department vide his letter No.F.3(22)-GA(AR)/06/194-195 dated 17.02.2007 furnished the following information :-

" Item No.(ii) of para-2 of your letter under reference it is stated that no specific allegation is available in the GA(AR) Department against DFO, Sadar for processing of illegal timber in the Saw Mills.

Hence, there exists no Govt. decision of taking any action against DFO, Sadar."

3. According to the complainant the reply given by the SPIO was factually incorrect, misleading and evasive which amounted to non-compliance of the direction of the Commission. The complainant, therefore, requested this Commission to review the matter and issue necessary directions for allowing the complainant to have access to the specific information sought for by him and also to penalise the SPIO under section 20 of the RTI Act, 2005 (for short the Act).

4. On perusal of the complaint, prima-facie grounds are found to take cognisance of the complaint under section 18(1) of the Act.

5. In response to the summons, the Opposite Party (OP) Sri M.L. Das, Under Secretary to the Government of Tripura, GA (AR) Department and SPIO appeared and submitted written representation defending his decision. As directed by this Commission, the OP also produced photocopies of the enquiry reports submitted by Sri K. Rajeswara Rao, Commissioner & Secretary to the Government of Tripura vide his endorsement No.F.3(4)/Commr/PWD/2005 dated 19.05.2005 and of even No. dated 20.05.2005.

6. As directed by this Commission, the complainant also furnished photocopy of the enquiry report submitted by Sri K. Rajeswara Rao, Commissioner & Secretary to the Government of Tripura under his endorsement No.3 (4)/Commr/PWD/2005/3083 dated 22.07.2005 and photocopy of the reply dated 06.04.2006 given to the Assembly Un-starred Question No.479.

7. The complainant remained absent in course of hearing. Heard the oral submissions made by the OP Sri M.L. Das.

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Point for decision:

8. In consideration of the complaint, the written representation of the OP and also other photocopies of documents furnished by the parties, the following points are required to be decided: -

- (i) Whether or not the information provided by the OP in compliance with the order dated 08.02.2007 passed by this Commission in Appeal No-11 of 2006-07 was appropriate?
- (ii) If the OP in providing the information contravened any provisions of the Act to warrant penalty under section 20 of the Act?

Reasons for decision:

9. Both the points are taken together for discussion for the sake of convenience. We have carefully gone through the judgment and order dated 08.02.2007 passed in Appeal No-11 of 2006-07 by this Commission, the information provided by the OP vide his letter No.F.3 (22)-GA (AR)/06/194-195 dated 17.02.2007 in compliance with the order of this Commission passed in the aforesaid judgment and order and also the photocopies of the enquiry reports submitted by Sri K. Rajeswara Rao, Commissioner & Secretary to the Government of Tripura on 19.05.2007, 20.05.2005 and 22.07.2005.

10. It is a fact that this Commission in deciding the Appeal No-11 of 2006-07 brought by the complainant directed the SPIO in the GA(AR) Department to provide specific and relevant information to the appellant (present complainant) against the second item of information sought for under his written request dated 09.08.2006 within a period of 15 days from the date of passing the judgment and order free of cost. The particulars of information sought for has already been described in paragraph- 2 above. The information sought for by the complainant under the said item of information in nutshell was the reason for not bringing to book the DFO, Sadar Forest Division for violation of the Supreme Court order dated 15.01.1988 contained in Para-7 in the writ petition (C) No. 202 of 1995. In our considered view, the reply to the said request for information was found to be most categorical while the OP informed the complainant that no specific allegation was available in the GA(AR) Department against the DFO, Sadar Forest Division for processing of illegal timber in the Saw Mills and hence, there exists no Government decision for taking any action against the DFO, Sadar. The SPIO is under obligation to provide information to a requester basing upon the current status of the materials upon which the information relates and he is not expected to create anything of his own to suit the purposes of a requester as argued by the complainant in his written complaint. For our satisfaction as to the correctness of the basis of providing the information by the SPIO, we have carefully gone through the three enquiry reports dated 19.05.2005, 20.05.2005 and 22.07.2005 of Sri K. Rajeswara Rao, Commissioner & Secretary to the Government of Tripura prepared as per direction of the Government wherein we found no trace of allegation against the DFO, Sadar Forest for contravention of the Supreme Court order as alleged by the complainant. There is nothing in record to disbelieve the authenticity of the information provided by the OP being

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the SPIO. Thus, we find no impropriety in the decision of the OP being the SPIO in providing the information in issue and the complaint is liable to be dismissed.

11. Since the OP being the SPIO is not found to have contravened any provision of the Act in providing the information in issue, the question of penalising him under section 20 of the Act as demanded by the complainant does not arise.

Decision:

12. In fine, the complaint is dismissed on contest.

13. Send copy of this judgment and order to the complainant and the OP. 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.

14. Pronounced.

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

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

Authenticated.

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25/5/07
(S.C.Saha)
Secretary

Tripura Information Commission

TRIPURA INFORMATION COMMISSION

P. N. Complex: Gorkhabasti : Agartala

Complaint No. 29 of 2006-07/ 513-15

May 25, 2007

Copy to:

1. Dr. Ashraf Khan, 66, Prakash Vihar, Dharampur, P.O.- Araghar, Dehradun, Uttranchal - 248001 (Complainant).
2. Sri M.L. Das, Under Secretary to the Government of Tripura, GA (AR) Department (SPIO).
3. The Commissioner & Secretary to the Government of Tripura, GA (AR) Department (Head of the Public Authority).

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25/5/07
(S.C.Saha)
Secretary

Tripura Information Commission