

TRIPURA INFORMATION COMMISSION

ANNUAL REPORT FOR THE YEAR 2006-07

CHAPTER – I

INTRODUCTION

1.1 Implementation of the Right to Information Act, 2005 in Tripura has advanced in 2nd year. The state has now had the experience of using it for almost two years. The experience, as can be expected is mixed. This has received appreciation in post independent India from all concerns. Introduction of this Act has replaced the concept of secrecy in Government functioning by openness. The Right to Information Act, in contrast to the official secrets Act, 1923 alleviates the citizens to the status of an information partner in the matter of good governance. It gives a right to the citizens to know how their hard earned money is spent and how spending becomes useful to them.

1.2 The adage, “information is power” has been proved in several cases where a citizen who is gripped of agony and annoyance has been able to get the authorities to do the task and get relief from agony and annoyance. Even though, many tasks are left undone. The benefit of the Act has been limited to only a few citizens and on a few occasions and it signifies that a lot of citizens have not been able to derive similar benefits from this legislation. It is time to examine this imbalance in securing similar benefits.

1.3 There are obvious many reasons why the benefits of the Act are not widespread. The implementation of the Act depends on Government authorities as much as it does on the public at large. For that, proper understanding amongst the bureaucrats is pre-requisite. Many Government officers are not aware of the basic provisions of the Act. This situation has arisen because many Government officers are reluctant and exhibit indifferent attitude and ignorance of the instructions from their senior officers. The proactive disclosure is an obligation for each public authority under section 4 of the Act within 120 days of the enactment. Unfortunately, in many cases, these are yet to be complied with by the public authorities even after the lapse of a year and more.

1.4 Sec 26 of the Act emphasizes certain duties of the controlling departments of the Government and it is the bounden duty of the departments to create awareness about the Right to Information Act not only in public but also in agencies of the Government responsible for proper implementation of the Act. Therefore, training of the officials, SAPIOs, SPIOs and the FAAs in particular is phenomenal. But training efforts undertaken

so far is not adequate. As the law of transparency in the country is new and evolving, there is an urgent need to identify the gap in the knowledge and the training required for the officials. By imparting proper training, it can bridge the communication gaps amongst the stakeholders. Apart from imparting training, creation of dedicated RTI cells at different levels to monitor the implementation and to conduct orientation programs is also necessary.

1.5 Tripura Information Commission is crucially emphasizing on general awareness and concentrating on awareness amongst the people including proper understanding of the provisions of the Act amongst the stakeholders. With the active support of the State Government specially the District Administration, the Commission could organize District and Sub-Divisional level educational programs to advance the understanding of the public, in particular of the backward and disadvantaged communities as to how to exercise the provisions of the RTI Act. That apart, several programs were also organized in the State capital as well as in the District Headquarters to develop resource persons and also to train the officials.

1.6 The Commission arranged discussions separately with each department under the State Government to review all minor details and render necessary advises for effective implementation of the RTI Act in the State. During the period under report, the Commission delivered few landmark judgments which would not only serve larger public interest but also will help in bringing more transparency and efficiency in government functioning.

CHAPTER - II

OBJECTIVES AND ACHIEVEMENT

2.1 CITIZEN'S ACCESS TO INFORMATION

The Act mandates dissemination of information held by and under the control of the Public Authorities. The Authorities must provide various details on the nature, management and their functioning. It is compulsory for the public authorities to do so. But ground reality is different. In many cases even a beginning has not been made to comply with the requirements of the Act. What might be the remedy if the public authorities are in mind not to act in hurry to carry out their obligations. There is also an unwarranted safety net hidden in the Act, which protects the upper echelon of bureaucracy from any penalty for violation of provisions of the Act. Only the Public information Officer is targeted by the Act who is invariably a junior or middle level functionary. The officers senior to him remain above accountability as they are put away from the grind of law.

However, the crux of incongruity is provided in section 19(8) empowering the Commission to require the public authorities to take steps as may be necessary to secure compliance with the provisions of the Act. But it is not backed by any cutting edge instrumentality. Therefore, Commission can do nothing if the public authority does not bother to comply with its requirements making mockery of the exercise.

2.1.2 TRANSPARENCY IN GOVERNMENT FUNCTIONING

The Official Secrets Act, 1923 prohibits the disclosure of official information indiscriminately. It virtually prohibits the disclosure of any information which government considers confidential. In fact, it has not defined the word secret what does it mean. So, in absence of a definition of the word secret, it is for the government to treat any official information as secret. The RTI Act shall have an overriding effect on the Official Secrecy Act 1923 and paved the way of openness having facilitated both transparency in administration and made the law enforcing agencies to perform their duties more sincerely than before.

2.1.3 CORRUPTION FEE ORGANISATION

Non- implementation of the rule of law generates corruption. Consequently, there is little scope for getting caught or impede of corruption by the law enforcing agencies. Corruption thrives in secret places and evades public places. The system of secrecy is less

for safeguarding public and national interest and more for safeguarding the mistakes, inefficiency and corrupt practices in government functioning. Right to Information has facilitated transparency in administration and bureaucrats care to be more responsive and feel accountable.

2.1.4 PARTICIPATORY GOVERNANCE:

The colonial form of administration is inherited by us like many others. This form of administration was largely authoritarian, rule oriented and alienated from the people. Development studies have demonstrated that direct participation of people in the formulation and implementation of Government policies and programs are sine quo run development. Real democracy cannot be worked by men sitting at the top. It has to be worked from below by the people. However, mere participation may not be purposeful unless they possess information of an effective process. The right to information is an effective means to strengthen the grassroots democracy and to ensure transparent administration. People's participation in local government and development activities, it would also bring local governments under public scrutiny and there by enable social audit of government activities and this is a process by which people can examine the administration and accounts of government, disclosure the failure and ensure accountability.

2.1.5 ACCOUNTABILITY OF THE PUBLIC AUTHORITIES:

The authority without responsibility is fatal. Unless there is accountability there is no responsibility. A good governance therefore symbolises accountability. Accountability cannot be enforced without transparency and the rule of law. Both transparency and accountability based on the right of access to information. No democratic government can survive without accountability and the basic postulate of accountability that is the people should have information about the functioning of the government. It is only when people know how government is functioning that they can fulfill the role which democracy assigns to them and makes democracy a really effective participatory governing system.

2.1.6 REPLACEMENT OF THE CONCEPT OF SECRECY BY OPENESS:

Open government laws are not simply for the satisfaction of citizen's curiosity. They usually derive from right of access to information relevant to legal interest and there is a continuing connection between the interest which a citizen has in how the country is being governed and right to access records about government. Such a right of access to

information is important in disclosing inefficiency and corruption. The exposure and elimination of corruption are important for good governance.

2.1.7 CONCLUSION:

The Right to Information Act, 2005 is a landmark status for protection of rights of Indian Citizen. Public Authorities are no longer in a position to continue their work without being transparent and accountable to the citizen. To move forward, the RTI Act, 2005 must be implemented cautiously and imaginatively. People also need to be patient at least for some time since the Act is in its formative stage. On balance, the relationship between the government officials and the citizen has profoundly changed after the enactment of the RTI Act, 2005. This is a relationship of partnerships and this relationship needs be less unequal. To achieve equality, it may take some more time. But the government and civil society organizations must strive to reduce inequalities.

CHAPTER –III

OVERVIEW OF IMPLEMENTATION OF THE RIGHT TO INFORMATION ACT, 2005 IN

TRIPURA

3.1.1 STEPS TAKEN BY THE STATE GOVERNMENT:

The State Government, for fulfillment of various requirements of the Right to Information Act, 2005 indeed have taken steps. Power vested under section 27 of the RTI Act, 2005, the State Government in exercise of the said power have framed the Tripura Right to Information Rules, 2005 and notified (Appendix-II). Restriction to divulge information provided under section 8(1) (a) and empowerment granted under section 24(4) of the Right to Information Act, 2005, the State Government in exercise of the power under section 24(4) have issued notification asto inapplicability of the provisions of the RTI to the Home (Police) Department of the Government of Tripura including its Forensic Science Laboratory provided that any information pertaining to the allegations of corruption and human rights violations in Home (Police) Department, exemption so ratified shall not apply (Appendix –II).

Further to notifications issued (Appendix-II, III) administrative directions by the Chief Secretary are also issued to the Head of the Departments and Public Authorities under the State Governments to ensure effective implementation of the Act (Appendix-I).

3.1.2 AREAS TO BE TAKEN CARE OF:

The RTI Act as being its initial phase, action taken by the State Government is not proved enough. Instructions of the senior bureaucrats, juniors and middle level offices have nevertheless either remained recalcitrant or gone by the instructions. RTI makes little sense if access to that information is limited only to literate, resourceful and computer savvy people. The RTI can be understood as having two facts from the perspective of the grassroots, viz access to general information such as individual files, services or decisions made by the officers.

3.1.3 USE OF GOVERNANCE:

In this context, the use of e-governance for strengthening the RTI implementation is mutually beneficial. In fact, the RTI Act in India's first law and perhaps the only law that obligates the Government as provided under section 4(1)(a) to take up e-governance.

Digitization of all Government Departments which is vital strengthen e-governance and quite important to address the information need of the citizens.

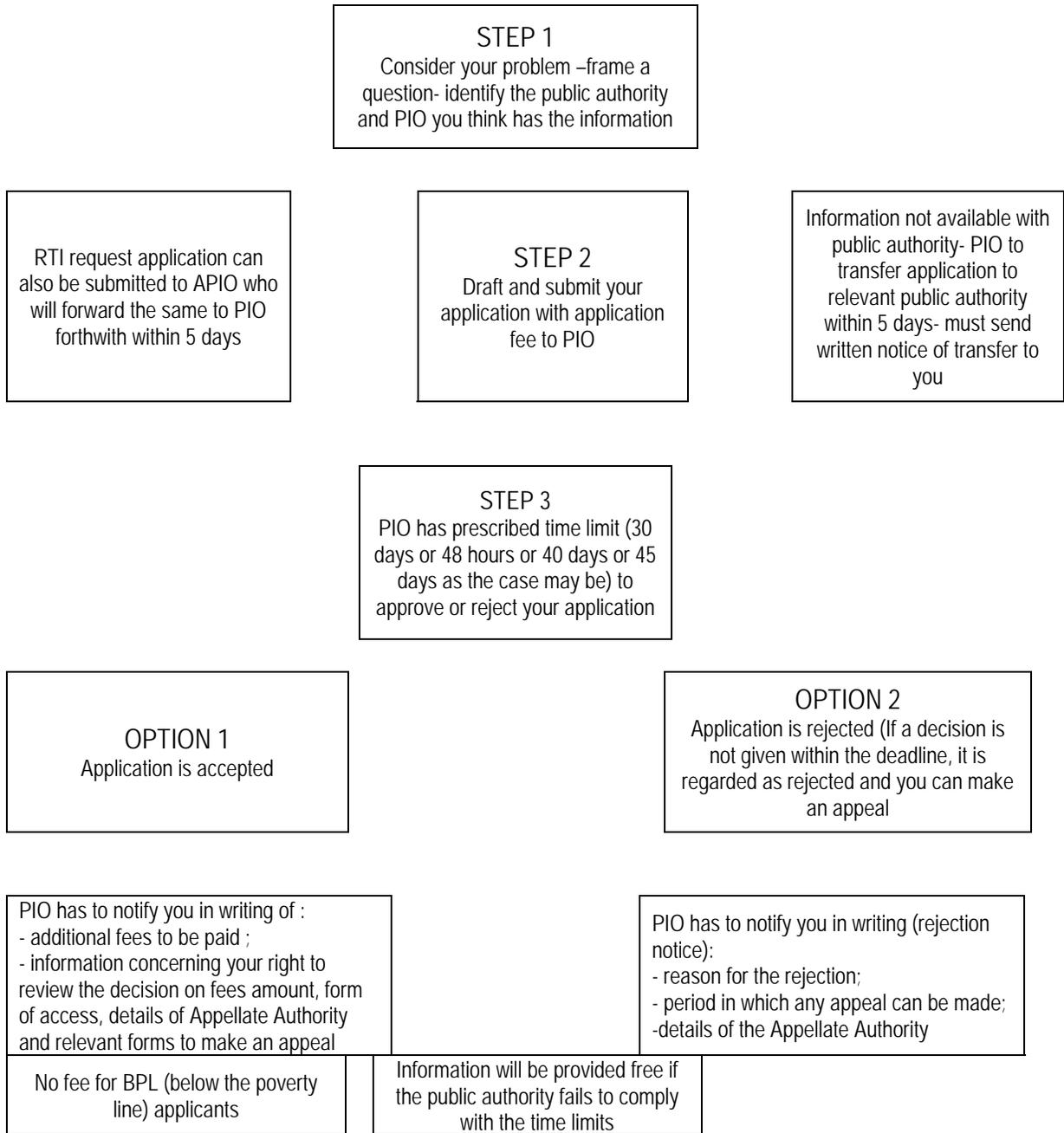
3.1.4 PREPARATION OF PROGRAMMES:

Set a part, programming is one of the important task to develop and organize educational programmes to advance the understanding of the public in particular of disadvantaged communities as to how to exercise the rights contemplated under the RTI. Section 26 of the RTI Act, 2005 has emphasized supportive role of the State Government which inter alia includes preparation of programmes and encourage public authorities to participate in the development and promote timely and effective dissemination of accurate information by public authorities about their activities and train the officials involved in implementation of the RTI Act and provide training materials for use by the public authorities. The guidelines issued by the State Government is necessary to be time tested and alternation, modification, updation are necessary to be citizen friendly and also necessary to be made at regular intervals. Citizen friendly modules for use by the stakeholders are to be formulated. Human Right Initiatives in their guide to using the RTI, 2005 (CHRI-2006) has developed a process sheet to help a requester of having access of information and keeping the process sheet in view, the State Government may prepare further guideline for better use of the RTI. The process sheet is replicated below: -

RTI Process Sheet

Applications & Appeal Process under RTI Act, 2005- from citizen perspective
(Source: CHRI 2006- Your guide to using the RTI Act, 2005 with modification)

Application Process



Appeal Process

I Appeal

PIO sends you a rejection notice

Complaint

Appeal to First Appellate Authority (FAA) within the public authority within 30 days if you are :
 - Aggrieved by the notice ; or
 - No decision was made within 30 days (or extended period)

Direct complaint to Central or State Information Commission (IC). If you face any problem in accessing information because :
 - No PIO has been appointed;
 - You are refused access ;
 - You are charged unreasonable fee ;
 - You have been given false information ;
 - Any other matter or accessing information.

FAA to dispose of appeal within 30-45 days

FAA accepts appeal.
 Written notice to be given.
 Information to be provided as soon as possible

FAA rejects appeal.
 Written notice to be given including your right to appeal to the Central or State IC

No time limit for filing complaints

II. Appeal

IC reviews documents, PIO to justify non-disclosure. You and any third parties involved have a right to be heard. No time limit for decision.

IC imposes penalty on PIO and refers PIO for departmental penalty

IC accepts the appeal/complaint
 - notifies the requester;
 -orders release of information;
 -orders public authority to comply with RTI Act

IC rejects the appeal/complaint and gives you notice of the decision

Appeal to courts is a fundamental right.
 Therefore you can appeal to the State High Court or Supreme Court

3.1.5 DESIGNATION OF SPIO, SAPIO AND FAA:

Statutory actions mandated under the provisions of the RTI Act, 2005, Public Authorities as per instructions of the State Government have taken actions as required in many areas and perpending provisions laid down under section 5 of the said Act have designated as many number of State Public Information Officers, State Assistant Public Information Officers and First Appellate Authorities. Department wise status is particulated below: -

Sl. No.	Department	No. of Public Authorities	No. of Public Information Officers Designated	No. of Assistant Public Information Officers Designated	No. of First Appellate Authorities Designated
(1)	(2)	(3)	(4)	(5)	(6)
1	Governor 's Secretariat	01	01	01	01
2	Assembly Secretariat	01	01	01	01
3	Tripura Public Service Commission	01	05	05	01
4	Agriculture Department	03	39	39	06
5	Animal Resource Development Deptt.	02	09	09	01
6	Cooperation Department	NA	12	12	11
7	C M Secretariat	01	01	01	01
8	Education (SW & SE)	01	01	56	01
9	Education (Higher)	02	02	02	02
10	Education (School)	04	624	574	25
11	Education (YA&S)	01	06	05	
12	Election Department	01	20	20	01
13	Food & Civil Supplies Deptt.	01	19	19	01
14	Forest Department	01	19		01
15	Finance Department	04	09	09	09

16	Fisheries Department	06	11	11	06
17	General Administration (AR) Department	03	03	03	03
18	General Administration (P&T) Department	01	01	01	01
19	General Administration (SA) Department	01	01	01	01
20	General Administration (Pol) Department	01	03	04	01
21	General Administration (P&S) Department	01	01	01	01
22	General Administration (Confidential & Cabinet)	01	01	01	01
23	Health & Family Welfare Department	02	80	34	02
24	Director General of Police	01	01	01	01
25	Home (Jail) Department	01	01	12	01
26	Information, Cultural Affairs & Tourism	01	01	05	01
27	Industries & Commerce including HHS & IT	03	42	51	03
28	Labour Department	03	13	05	03
29	Law Department	01	01	01	01
30	Planning & Coordination Deptt. (Including Statistics)	02	19	19	02
31	Power Department	03	101	101	04
32	P W D (R & B)	01	93	93	NA
33	P W D (W R)	01	12	43	01
34	P W D (P H E)	01	12	40	01
35	P W D (Housing Board)	01	02	02	02
36	Panchayat Department	01	124	126	NA

3.1.6 PROACTIVE DISCLOSURE BY PUBLIC AUTHORITIES:

Sub section 2 of section 4 of the RTI, 2005 provides that it shall be a constant endeavour of the every Public Authority to provide as much information suo motu to the public at regular intervals through various means of communications including internet so that the public have minimum resort to the use of this Act to obtain information. Keeping

this provision in view, the State Government have issued instructions to the Public Authorities to publish information proactively which is a natural corollary of the public's right to information and forms the sine que run of transparent and accountable governance. However, information received from the departments so far, only a few Public Authorities have made such disclosure upto 31.03.2007 and details of disclosure made by the Public Authorities are as follows: -

Sl. No.	Department	No. of Public Authorities	No. of Public Authorities which published the 17 Manuals under Section 4(1)(b)	No. of Public Authorities which displayed the 17 Manuals Online
(1)	(2)	(3)	(4)	(6)
1	Agriculture Department	03	03	NA
2	Education (SW & SE)	01	01	NA
3	Education (Higher)	02	02	NA
4	Education (School)	04	04	NA
5	Election Department	01	01	NA
6	Food & Civil Supplies	01	01	NA
7	Fisheries Department	06	06	NA
8	General Administration (AR) Department	03	03	NA
9	General Administration (P&T) Department	01	01	NA
10	General Administration (Pol) Department	01	01	NA
11	General Administration (P&S) Department	01	01	NA
12	General Administration (Confidential & Cabinet) Department	01	01	NA
13	Health & Family Welfare Department	02	02	NA
14	Home (Jail) Department	01	01	NA
15	Information, Cultural Affairs & Tourism	01	01	NA
16	Labour Department	03	03	NA
17	Law Department	01	01	NA

18	Panchayat Department	01	01	NA
19	Rural Development Department	07	07	NA
20	Transport Department	01	01	NA
21	TRP & PGP	01	01	NA

3.1.7 DISCLOSURE OF INFORMATION AND COMMITMENT OF PUBLIC AUTHORITIES:

The State Information Commission has also the inherent right to require the public authority to comply with the provisions of the RTI Act, 2005 whenever appeal comes to the Commission under section 19 of the Act. So far, no such appeal is received by the Commission. Compliance of section 4 in general has been minimal which cannot be termed as satisfactory state of disclosures. Public Authorities need to show more commitment not only in spirit but also in practice by publishing information under section 4 on their website and through other reasonable means.

So far, the Department of I.T. with the assistance of the Ministry of Communication and Information Technology has set up community information centers in most of the block headquarters in the State. Taking into consideration the usefulness of those centers, the coverage net is further decided to improve which will cover the panchayats in rural area. Tripura Information Commission urges the Government to give this scheme a top priority if its intention is to see that every citizen is empowered access to information as per provisions of the RTI Act, 2005. In addition, specific budgets must be sanctioned to all public authorities for creating framework for setting up an efficient record management system without which public authorities may not be able to provide information sought for as per the provisions of the RTI Act, 2005.

3.1.8 INDEXING OF RECORDS AND RECORD KEEPING:

Indexing of records is an integral part to locate important information either to meet the needs of citizens or even for simple auditing or accounting purpose. In such a situation, if the managing and indexing of records are neglected, it would not be possible to effectively implement access to information act. It is critical to put strong procedure and guidelines in place for the implementation of a useful records management system though it would be impractical to expect uniformity in practice across the public authorities, given

the essential differences in the nature of their functioning, procedure and guidelines help to attain consistency in record keeping system. It is not that the record keeping system is not prevailing but advancement towards e-governance having increased use of computers for storing data as well as for dissemination information with a gradual shift to automated environment will ensure overall efficiency and productivity in the era of transparent governance.

3.1.9 DISPOSAL OF APPEAL UNDER SECTION 19(1) OF THE RTI ACT, 2005 BY THE FIRST APPELLATE AUTHORITIES:

Name of Department	No. of appeals received directly	No. of appeals received through APIOS	Total no. of appeals under consideration	No. of BPL applications	No. of appeals disposed of	No. of appeals pending
Higher Education	02	-	02	-	02	-
Directorate of ICAT	01	-	01	-	01	-
Directorate of Health Services	01	-	-	-	01	-
Revenue	03	-	03	-	03	-
Forest	03	-	03	-	03	-
GA (AR)	10	-	10	-	10	-

3.1.10 DISPOSAL OF REQUEST FOR INFORMATION BY THE STATE PUBLIC INFORMATION OFFICERS UPTO 31ST MARCH, 2007

Status of disposal of request for information by the State Public Information Officers based on Annual Reports furnished by the different departments stands as under: -

Name of Department	No of Requests Received during the Year	No. of Requests Disposed	No. of Requests Rejected	No. of Requests allowed	No of requests pending at the end of the year
(1)	(2)	(3)	(4)	(5)	(6)

Tripura Public Service Commission	Nil	Nil	Nil	Nil	Nil
Agriculture Department	Nil	Nil	Nil	Nil	Nil
C M Secretarial	02	02	Nil	02	Nil
Education (SW & SE)	05	04	01	05	Nil
Education (Higher)	16	16	Nil	16	Nil
Education (School)	54	54	Nil	54	03
Education (YAS)	01	Nil	01	Nil	Nil
Food, Civil Supplies & Consumer's Affairs	02	02	Nil	02	Nil
Forest Department	42	42	04	42	Nil
General Administration (AR) Department	15	15	02	15	Nil
General Administration (P&T) Department	08	08	Nil	08	Nil
Home (Jail) Department					
Home (Police) Department	05	05	03	05	Nil
Health Department	36	36	Nil	36	Nil
Family Welfare & Preventive Medicine Department	05	05	Nil	05	Nil
Information, Cultural Affairs & Tourism	07	07	Nil	07	Nil
Labour Department	02	01	01	01	Nil
PWD (WR)	01	01	Nil	01	Nil
Revenue Department	07	06	01	07	01
Science, Technology & Environment Department	03	03	Nil	03	Nil
SC, OBC & RMs Department	02	02	Nil	02	Nil
Transport Department	01	01	01	01	Nil
Tribal Welfare Department					
Urban Development Department	16	15	01	15	Nil
Tripura Information Commission	03	03	Nil	03	Nil
Tripura Gramin Bank	02	02	Nil	02	Nil
	235	231	15	232	04

Reports from the following Departments are not received in spite of repeated persuasions made by the Commission from all levels and hence could not be replicated: -

- (a) Finance
- (b) Power
- (c) Panchayats
- (d) Rural Development
- (e) PWD(R&B)

3.1.11 SUMMARY OF FEES COLLECTED BY THE PUBLIC AUTHORITIES UNDER
VARIOUS DEPARTMENTS UPTO 31.03.2007:

Name of Department	Fee Collected Section 6(1)	Fee Collected Section 6(1)	Total collection
Tripura Public Service Commission	400.00	1016.00	1416.00
C M Secretariat	20.00	0	20.00
Animal Resources Department	20.00	0	20.00
Education (Higher)	150.00	81.00	231.00
Education (School)	530.00	3036.00	3566.00
Education (YA&S)	10.00	0	10.00
Education (SW&SE)	40.00	300.00	340.00
Forest Department	514.00	1706.00	2220.00
Food & Civil Supplies Department	20.00	08.00	28.00
General Administration (AR) Department	150.00	0	150.00
General Administration (P&T) Department	80.00	738.00	818.00
General Administration (SA) Department	20.00	0	20.00
Health Services Directorate	340.00	173.00	513.00
FW&PM Directorate	40.00	177.00	217.00
ICAT Department	70.00	864.00	934.00
Home (Police)	30.00	0	30.00
Law Department	20.00	0	20.00
PWD (WR)	10.00	0	10.00
Planning & Coordination Department	20.00	0	20.00
Revenue Department	30.00	16.00	46.00
Science & Technology Department	30.00	04.00	34.00
Transport Department	10.00	0	10.00
Tripura Information Commission	30.00	108.00	138.00
Tripura Gramin Bank	20.00	0	20.00
Tribal Welfare Department (TTAADC)	30.00	44.00	74.00
Urban Development Department	150.00	136.00	286.00
Welfare for SC, OBC & RM Department	10.00	0	10.00
Grand Total	2794.00	8407.00	11201.00

The Public Authorities as a whole in the state, since implementation of the RTI Act, 2005 upto 31.03.2007 have received as many as 282 nos. application seeking information through the RTI Act, 2005 of which 47 nos. application were received in the year 2005-06 and rest 235 in the year 2006-07. The applications received in the year 2005-06 in terms of number of public authorities declared by the State Government amount more or less an application by one public authority which is very nominal. The number has however, increased in the year 2006-07 but not significantly. On an average now 20 nos. of application get filed every month and the trend remains increased in every month. Tripura Information Commission had received 17 nos. appeal and 30 nos. of complaint from the information requesters, which means 188 nos. information seeker got themselves satisfied with the information supplied by the SPIO's as per request or information furnished by them as per direction of the First Appellate Authorities.

3.1.12 REPARATION OF ANNUAL REPORT BY THE COMMISSION:

Responsibility entrusted upon the Tripura Information Commission under section 25 of the Right to Information Act, 2005 to prepare annual report after end of every year. Commission prepared annual report after end of the year 2005-06. A copy of the report was forwarded to the State Government which (under section 25(4) of the Act) is expected to place before the Legislative Assembly. Each and every department is required to collect and provide relevant information to the public authorities within its jurisdiction to the Commission for the preparation of annual report and comply with the requirements concerning the furnishing of that information. Tripura Information Commission requested the Commissioner and Secretaries of all departments and certain independent officers to provide such information, but soon received or yet to be received, preparation of report gets delayed. The Commission urges upon the Government for issuing suitable instructions to the heads of departments to insist on early and timely providing relevant information.

In order to enable TIC to prepare annual report, Commission requested to all the Heads of Departments to provide error free data and this report is prepared based on those data. The Commission has incorporated in this report the data that the departments have submitted. So. It bears no responsibility for authenticity, which rests with the concerned department.

(Graphical representation)

3.1.13 STATUTE OF TRIPURA INFORMATION COMMISSION:

Tripura Information Commission is manned by two information Commissions including the Chief Information Commissioner. During the reporting period, the Commission

registered 17 nos. appeals, out of which it has disposed all the appeals. It has also received 30 nos. complaint out of which it has also disposed all the complaints. Almost 90%(percent) of the appeals registered were due to an unsatisfactory response from the Appellate Authorities or the State Public Information Officers, while 20 percent was due to no response being received from the SPIO. In only 12 percent of the cases registered against information denied by invoking various provisions of the RTI Act, 2005. This indicates that the public authorities/functionaries lacked appreciation of the provisions of the Act since denial later appeared inappropriate. This could have been due to lack of training in the initial phase of operation of the Act.

The Commission allowed 73 percent of appeals and rejected the rest. Similarly, allowed 78 percent of the complaints and rejected the rest. At the time of ending appeals and complaints Commission found some latches in implementation of the provisions of the RTI Act. Commission, in those cases pointed out the latches and advised the public authorities and the head of the departments to take appropriate immediate necessary action and most of the public authorities and heads of the departments acted upon the advise of the Commission.

3.1.14 JOINT INITIATIVE TAKEN BY PUBLIC AUTHORITIES AND COMMISSION:

No significant initiative to disseminate information is reported to have been taken by the public authorities. But the District Administration during the reporting period jointly with the Tripura Information Commission organized seminar cum workshop at different Sub-Division headquarters to educate the stakeholders. This sort of initiative, other public authorities can resort to. Tripura Information Commission is very open-mindedly welcomes this sort of initiative and commits to provide all necessary helps.

CHAPTER – IV

TRIPURA INFORMATION COMMISSION – AN OVERVIEW

4.1 STRUCTURE OF THE COMMISSION:

Tripura Information Commission is manned by two Information Commissioners including Chief Information Commissioner. Particulars of the Chief Information Commissioner and the State Information Commissioner are as follows: -

Chief Information Commissioner:

Name	Address	Contact Number
Sri B.K.Chakraborty	Pandit Nehru Complex: Gorkhabasti, Agartala	0381-2218021 (O) 0381-2324637(R) 09436120039 (M)

Information Commissioner:

Name	Address	Contact Number
Sri D.K.Daschaudhuri	Pandit Nehru Complex: Gorkhabasti, Agartala	0381-2226561(O) 0381-2327295(R) 09436120047 (M)

Website number of the Tripura Information Commission: www.tripura.inc.in.

4.2 SECRETARIAT OF THE COMMISSION:

As approved under section 16(6) of the Right to Information Act, 2005 the State Government have posted one TCS Officer for functioning as Secretary to the Commission. Besides, Commission has also been provided with the following category of staff on deputation from other departments:

- (i) Private Secretary. Gr. III – 1 No
- (ii) PA-I - 3 Nos.
- (iii) Office Supdt. - 1 No
- (iv) Assistant - 1 No
- (v) Driver - 2 Nos (one regular and one contingent)
- (vi) Group D - 6 Nos (5 regular and 1 contingent)

Contact number of the Secretary, Tripura Information Commission :- 0381 2224146(O)

4.3 LOCATION:-

The office building of the Tripura Information Commission is located in the 1st floor of the Secretariat Annexe building, Pandit Nehru Complex : Gorkhabasti, Agartala- 799006.

4.4 OFFICE ACCOMMODATION:

In the Secretariat Annexe building at P.N. Complex, Gorkhabasti, Agartala, two rooms have been allotted for the chambers of the State Chief Information Commissioner & the State Information Commissioner with inadequate furniture. One small room has been allotted for the Secretary of the Commission. Another small room has been allotted to accommodate the personal staff of the State Information Commissioner and the Secretary of the Commission and other officials, which is too small to accommodate all the staff. The Commission has not yet been provided with any conference room and a room for hearing with adequate furniture.

The Commission does not have its own office equipment. Requisition has been sent for two computers, one fax machine, one photocopier, 4 almira to the GA (AR) Department. At present, the Commission is using one photocopier and two computers belonging to other departments and state of condition of the equipments is not good and troubles are being cropped up frequently.

CHAPTER – V

CAPACIY BUILDING THROUGH TRAINING,AWARNESS GENERATION AND EDUCATIONAL PROGRAMMES

5.1 Public awareness about their right to access information held by the public authorities in accordance with the provisions of the Act, sincere and applicant friendly attitude of the information providers under the public authorities are the primary requirements for building an informed citizenry to ensure establishment of a meaningful democracy with good governance.

5.2 The appropriate government (in our case the state government) and the public authorities mainly are vested with the responsibility of building capacity through education and training of the stakeholders under the public authorities and development of awareness among the public at large as laid down in section 26 of the Act.

5.3 At national level, the centre for good governance (CGG), Hyderabad in partnership with Yashwantrao Chavan Academy of Development and Administration (YASHADA) , Pune have been designated as National Implement Agency (NIA) under the control of the Department of Personal & Training, Ministry of Personal Training, Government of India and United Nations Development Programme (UNDP), Capacity Building for Access to Information (CBAI). Under the project, NIA is carrying out various activities like training of recourse persons who in turn would conduct training at state and district levels for Public Information Officers, State Assistant Public Information Officers, Appellate Officers and other government officials etc. Initially, 12 states and 24 districts are covered under the project. As advised by the of DoPT, Government of India, this Commission requested the state government to take up the issue with the DoPT for inclusion of Tripura under the project and suggested to make SIPARD as the implementing agency in Tripura.

5.4 SIPARD during the year under report organized --- numbers of programmes for imparting training on RTI to the SPIOs and the SAPIOs in which --- numbers of stakeholders participated in the programmes. Both the State Information Commission and the State Information Commissioners actively participated and placed their presentations on RTI Act, 2005. The State Information Commissioner had also placed his presentation on RTI in a programme arranged by the Working Journalists' Association at Khowai on 05.01.2007.

5.5 Besides, the programmes arranged by the SIPARD, after active persuasion by this Commission, the District Administration, Directorate of School Education, Directorate of Urban Development, Directorate of Information, Cultural Affairs & Tourism arranged training and workshop programmes for the Appellate officers, SPIOs and the SAPIOs designated by the respective Directorates during the year under report as described below. In all these programmes the SCIC and the SIC placed their presentations on RTI.

Date	Name of the Directorate	Place of training/ workshop	No. of participants	Credentials of the participants.

5.6 The SCIC and the SIC had also place their presentations on RTI Act in the exhibition programmes arranged by the PIB in course of their Bharat Nirman held at Kulai and Jirania on --- and ----- respectively which --- were attended mainly by public,

5.7 The SIC had also attended live telecast in local TV channel on UTV on two occasions as sponsored by he Tripura State Legal Services Authorities and placed discussion and answered to the questions posed over telephone on RTI Act, 2005.

5.8 This Commission does not consider conducting training and workshops for information providers (Appellate Officers, SPIOs and SAPIOs) to be adequate as proper education. In order to achieve the object of enactment of the Act education should be spread over among the masses. For that end it is necessary to incorporate the subject of RTI in the curriculum of senior classes in schools and in colleges as a long-term measure.

CHAPTER – VI

COMMISSION'S OBSERVATIONS & RECOMMENDATIONS

Compliance of Section 4 by the Public Authorities:

6.1 Section 4 of the RTI Act, 2005 provides that all Public Authorities under the State Government are under obligation to pro-actively make available key information for the citizens. Standardization of procedure to be followed by all Public Authorities is must for the disclosure mandated under section 4 of the Act.

6.2 The Public Authorities are also required under section 4(1) of the Act to ensure that all their records are duly catalogued, indexed and computerized within a reasonable time and subject to availability of resources so that access to such records is facilitated. For this purpose, the State Government may make adequate fiscal allocation to all the Departments/ Public Authorities.

6.3 Proper implementation of the provisions of the Act invokes financial impact and involvement. But, in appears that there exists no support available in the budget provisions of the departments. It is suggested that a suitable portion of annual budget allocation may be earmarked by each Public Authority to fulfill their obligations under the Act.

6.4 It has been experienced that many Public Authorities are not complying with above obligations laid down under section 4 of the Act. This has created problems in carrying out the directives of the law. It is, therefore, suggested that strict directions be issued by the State Government that all the Public Authorities should fulfill their obligations laid down under section 4 of the Act as failure to fulfill such obligations may attract penal provisions be invoked against the defaulting Public Authorities.

6.2 CONTEMPT POWERS AND ENFORCEMENT OF DECISIONS OF THE COMMISSION:

6.2.1 Section 19(7) of the Act stipulates that the decisions of the Information Commission shall be binding. That the Act is silent about the action to be contemplated in case there is non-compliance. There are instances of non-compliance of the orders passed

by the Commission. Therefore, it is suggested that a new sub-section to the section 19 may be inserted empowering the Commission to enforce its decision including penalizing the head of the Public Authority for continued contempt of its orders.

6.2.2 The Commission is already having the powers of Civil Court for limited purposes under section 18(3). These do not cover powers concerning execution of decrees and recovery of fines etc. Therefore, these limited powers under section 18(3) need to be widened to enable the Commission to appropriately deal with the contempt matters.

6.2.3 The amount of penalty imposed or compensation awarded by the Commission should be made recoverable as an arrear of land revenue. It is, therefore, suggested that separate section 20(A) may be added for the purpose.

6.3 FINANCIAL AND ADMINISTRATIVE AUTONOMY OF THE COMMISSION:

6.3.1 The State Information Commission is required to exercise powers autonomously without being subjected to the direction of any other authority. Section 15(4) of the Act provides that the State Information Commission shall be granted financial and administrative autonomy for its free and fair functioning to ensure effective implementation of the Act.

6.3.2 Independence of the State Information Commission and effective discharge of duties and responsibilities cannot be guaranteed without granting full financial and administrative autonomy. For allowing complete financial and administrative autonomy to the Tripura Information Commission, the following steps including delegation of financial powers may be considered by the State Government at the earliest:

- i) Tripura Information Commission may be included in the definition of "Department" at rule 2(g) of the DFPRT, 1994;
- ii) The State Chief Information Commissioner, Tripura Information Commission may be delegated with all powers of department under the DFPRT, 1994;
- iii) The Secretary, Tripura Information Commission may be delegated with the powers of the head of department and head of office of the Commission and be allowed to exercise all powers accordingly under the DFPRT, 1994;
- iv) Notwithstanding the provisions under Rule 9 of the DFPRT, 1994, the Tripura Information Commission may be exempted from obtaining prior concurrence of the Finance Department in respect of the following items :-
 - a) Hiring of vehicles at the rates and conditions specified by the State Finance Department from time to time:

- b) Installation of telephones, extension of existing telephones and provision of STD facilities subject to the entitlement specified by the State Finance Department from time to time;
- c) Purchase of furniture, fax machines, photocopiers and computers after observing all required formalities and subject to availability of fund;
- d) Purchase of newspapers and periodicals;

6.3.3 The State Government may finance the Tripura Information Commission in the form of Grant-in-Aid with charged budget.

6.4 GENERAL:

6.4.1 The RTI may be included in the syllabus at High School and College level education.

6.4.2 The Information Commission has not yet vested with any inherent powers under the Act to entertain any petition to review its own orders/decisions. It is felt necessary that specific provisions be made in the Act to undertake petition by the Information Commission to review its own orders.

6.4.3 In order to ensure full-fledged functioning, the Commission may be provided with appropriate and adequate office accommodation including furniture, required office equipments etc.

6.4.4 Warrant of Precedence may be prepared immediately showing the positions of the State Chief Information Commissioner and the State Information Commissioner.

6.4.5 Adequate budget allocation be made to conduct publicity, training and educational programmes for the information seekers and the information givers.

6.4.6 There are instances that the applicants have failed to respond to the demand made by the SPIOs indefinitely for the fees to be deposited to enable them to supply information. It is, therefore, necessary that a proviso may be inserted after sub-section (3) of section 7 of the Act fixing time for 30(thirty) days for deposit of fees from the date of demand and further proviso may also be added for condonation of postal delay, if any arises.

6.4.7 The State Government in exercise of the powers conferred on it by section 27 of the Act is to frame rules on several matters to carry out the provisions of the Act. In the meantime, the State Government vide notification No.F.3(5)-GA(AR)/2005(L) dated

07.10.2005, framed rules in the matter of rates of fees, mode of payment of fees etc. (Appendix-II). The mode of payment of fees by the applicant has been prescribed to be paid in cash. The sole mode of payment may cause difficulties for the information seekers in sending their written request by post or e-mail. Considering these difficulties, some other alternative modes of payment of fee like in court fees, postal order and treasury challan may be included in the rules.

6.4.8 The Commission had sent a comprehensive draft rules to the Commissioner & Secretary to the Government of Tripura, GA (AR) Department vide No.F.4(1)-SCIC/TIC/2006/130 dated 02.05.2006 for taking appropriate action, which is pending for finalization. The State Government may consider for immediate finalization of the said draft rules.

6.4.9 Adequate awareness could not be generated so far about the Act. Major part of the common citizens, specially the disadvantaged communities are not aware of their rights guaranteed under the Act and how to avail them. Therefore, more and more awareness programmes are required to be undertaken utilizing all means including coverage on Doordarshan and AIR. Educational programme involving school children is necessary for spreading awareness on RTI through the textbooks. It is proposed that RTI may be included as a subject at the secondary level while at elementary levels, one page information on RTI may be provided in an appropriate place of the text books to attract the attention of the mothers of the children and other readers. However, the matter may be standardized to avoid misinterpretation at any stage. Therefore, the materials may be prepared by the SCRET having translated according to the need of the state and inclusion in the textbooks at the elementary levels while for secondary level, the said task may be entrusted to the Tripura Board of Secondary Education (TBSE) as the same is responsible for preparation of materials and printing of text books for secondary level. Tripura Information Commission may give advises as and when TBSE and SCRET feel advises necessary to them.

APPENDIX -IGOVERNMENT OF TRIPURA
GENERAL ADMINISTRATION (ADMINISTRATIVE REFORMS) DEPARTMENT

No.F.3 (5)-GA(AR)/2005

Dated, Agartala the 22nd Sept,2005**MEMORANDUM**Sub: - Guidelines for implementation of the Right to Information Act, 2005

The Right to Information Act (RTI Act), 2005 received the assent of the President of India on 15.6.2005 and certain provisions of the Act, viz. Section 4,5,12,13,15,16,24,27 and 28 relating to preparations necessary for implementation of the Act came into force with immediate effect from the 15.6.2005 itself. Other provisions of the Act will come into force on the 120th day from 15th June 2005, i.e. on and from the 12th October 2005.

2. Several meetings of senior officials were taken by the Chief Secretary for implementation of the Act in the State and minutes of those meetings have also been circulated. A workshop was also held at SIPARD on the last 8.9.2005 on implementation of the Act and the senior officials of the State Government and Heads of Public Sector Undertakings, Corporations, Local Bodies, Organizations, etc also attended the workshop.

3. It has been decided by the Government that it will be responsibility of every Public Authority/ every Department, unit or office of the Government and the organizations under its control to implement the Act.

4. All Departments are, therefore, requested to take immediate action for implementation of the Act **according to the following schedule: -**

(1) Identification of Public Authorities in each Department:

The RTI Act impose on every " Public Authority" the obligation to implement the Act " Public Authority" has been defined in Section 2(h) of the Act. So, every department shall identify the public authorities under and specifically instruct the Public Authorities to take all step discharge the obligations imposed on it by the Act.

(2) Preparation and publication of information by every public authority on 16 points as laid down in section 4(1)(b).

Every public authority has to publish information on 16 specific points as laid down in section 4(1)(b) of the Act.

(3) Identification and notification of the State Public Information Officer (PIO) under section 5(1) and State Assistant Public Information Officer (APIO) under section 5(2) of the Act by every Public Authority.

- (a) A State Public Information Officer (PIO) and a State Assistant Public Information Officer (APIO) has to be identified and designated by each Public Authority for each of its administrative units or office.
- (b) Generally, there should be one PIO and one APIO for every unit or office. For example, there should be one PIO and one APIO for a Directorate, one PIO and APIO for District level office, one PIO and one APIO for a Sub-Divisional level or Block level office and so on. But if a senior officer is not available in any field level office, an APIO may be designated for that field level office and a senior officer of a higher level office may be designated as PIO.
- (c) In fact, official records in a Directorate or a State level office remain in the custody of the Director or the executive Head of an organization and the official records in the field level or branch office remains in the custody of the Head of that office. So, it will be easy and convenient to provide information to applicants, if the Director/ the Executive Head of an organization is appointed PIO in respect of the Directorate/ State level office of an organization. Similarly, in a Sub-Divisional level office or branch office/ field office, the Head of office under whose custody records are available may be designated as the PIO. Another officer subordinate to the Director or Head of office may be designated as the APIO.
- (d) If in a field office, there is no officer senior enough to handle the works of a PIO, one APIO for that office may be designated and senior officer of a higher level office, though at a different location, may be designated as PIO.
- (e) When it is difficult for the PIO to contact the common people in far of places, information will be made available to them through the APIO who is in a better position to contact the people from his office.
- (f) A PIO and a APIO must be warned that in addition to other obligations, an APIO has to transmit to his PIO an application which he receives from a person seeking information, within 5 days of its receipt and a PIO has to provide information to an applicant within 30 days of the receipt of the request. If the information sought concerns life and liberty of a person, the information has to be given within 48 hours of the receipt of the request. If no decision is given on a request for information within the time specified above it will be deemed to be a refusal to give information and the PIO shall be punishable under the Act.

(4) Identification and notification of Appellate Officer under section 19 by every Public Authority.

- (a) When any person is aggrieved by the decision of a PIO, the aggrieved person has a right under section 19 of the Act to prefer an appeal against the decision of the PIO. The Officer who will decide an appeal should be identified and notified by every Public Authority.
- (b) As provided in the Act an officer who is senior in rank to the PIO is to be an Appellate Officer. So, an officer under whose administrative control the PIO is placed may be appointed Appellate Officer.

(5) Constitution of a State Public Information Commission by the State Government under section 15 of the Act.

Action in this regard is being taken by the GA (AR) Department.

(6) **Notification of Security and Vigilance agencies (which will be outside the purview of the Act) under Section 24(4) of the Act.**

Action in this regard is being taken by the GA(AR) Department.

(7) **Making Rules under section 27 of the Act.**

Action in this regard is being taken by the GA(AR) Department.

(8) **Training of PIOs, APIOs and Departmental Appellate Officers.**

Every Public Authority has to impart training to its PIOs, APIOs and Departmental Appellate Officers so that they can efficiently exercise their powers and functions.

(9) **Organization of educational programmes/ awareness campaign by the Government under Section 26(1) of the Act.**

- (a) Educational programmes/ awareness campaign is to be organized for the purpose of advancing the understanding, particularly of the disadvantaged communities, as to how to exercise the rights contemplated under this Act.
- (b) The DM & Collectors may organize such educational programme in their respective Districts with the assistance of the State Legal Services Authority. The PIOs, APIOs and Departmental Appellate Officers may also be invited to remain present in such programmes/awareness campaign.
- (c) Initially the DM & Collectors may arrange at least one such programme/ awareness campaign by the next 5th October 2005.

(10) **Preparation of some practical guide/manual by the Government on the Right to Information Act.**

GA (AR) Department will prepare some guide/ manual on the RTI Act with the assistance of the Law Department.

5. The Secretaries-in-charge of the Departments **may complete action on all the points from Sl. No.(1) to (10) of Para-4 above by the next 5th October, 2005 and confirm action to the GA(AR) Department.**

6. The guidelines given above may not be equally applicable to all Departments/ Organizations. In such cases the Departments may devise their own principle which is not inconsistent with the provisions of the RTI Act.

Sd/-
(R.K. Mathur)
Chief Secretary to the
Government of Tripura

APPENDIX-II

GOVERNMENT OF TRIPURA
GENERAL ADMINISTRATION (ADMINISTRATIVE REFORMS) DEPARTMENT
GOVERNMENT SECRETARIATE
AGARTALA

File No.F.3(5)-GA(AR)/2005(L)

Dated, Agartala the 7th Oct,2005

NOTIFICATION

In exercise of the powers conferred by section 27 of the Right to Information Act, 2005 the State Government hereby makes the following rules for the purpose of carrying the purposes of the said Act, namely –

CHAPTER-I
Preliminaries

1. Short title and commencement

- (a) These rules may be called the Tripura Right to Information Rules, 2005.
- (b) They shall come into force on and from the date of their publication in the official gazette.

2. Definitions

In these rules, unless the context otherwise requires,

- (a) "Act" means the Right to Information Act, 2005.
- (b) "Government" means the Government of Tripura.
- (c) "Sample" means a specimen or a small part or quantity of any material to be supplied for any scientific testing or analysis for the purpose of ascertaining what the whole is like.
- (d) "Section" means Section of the Right to Information Act, 2005.
- (e) The words and expressions used in these rules but not defined shall have the same meaning as assigned to them in the Act.

CHAPTER – VII

HIGHLIGHTS OF THE DECISION TAKEN BY THE COMMISSION IN DECIDING COMPLAINTS UNDER SECTION 18(1) OF THE ACT AND SECOND APPEALS UNDER SECTION 19(3) OF THE ACT

5.1 Complaint No-1 of 2006-07 between Smt.Swapna Majumder – Complainant vs. the Superintendent of Police, Dhalai District, Ambassa decided by this Commission on 31.05.2006.

Brief facts:

5.1.1. The complainant Smt. Swapna Majumder belonging to a BPL family alleged that her father Sri Chitta Ranjan Majumder, a fisherman was missing from his work place at Damburnagar Reservoir, South Tripura since 19.03.1998, which was reported firstly to Birganj Police Station (PS) and thereafter to Raishyabari PS for investigation. Having no response from the police authority, the complainant approached the National Human Rights Commission on 12.01.2006 in response to which the latter asked the Director General of Police, Tripura to hold an inquiry into the matter and submit report. The complainant sought for a copy of the result of the investigation of the case to the Officer-in-charge, Raishyabari PS and also to the Sub-Divisional Police Officer, Gandacherra both under the RTI Act, 2005 which were refused. Having aggrieved, the complainant approached this Commission on 10.05.2006 alleging denial of human rights of fair and speedy investigation and also to have access to the information sought for.

5.1.2 The Government of Tripura in exercise of the powers conferred by section 24(4) of the Act, vide Notification No.F.3 (5)-GA (AR)/2005/VI dated 27.9.2005, notified that the Act shall not apply to the Home (Police) Department, Government of Tripura including its Forensic Science Laboratory provided that the Act shall apply to the Home (Police) Department in respect of any information pertaining to any allegation of corruption and human rights violation.

5.1.3 Since the complaint disclosed denial of human rights of the complainant of fair and speedy investigation, the Commission took cognizance of the complaint under section 18(1) of the Act and decided the following points: -

5.1.3.1 Point No.1: Who is to designate FAA, SPIO and SAPIO in the police organization of Tripura?

5.1.3.2 Decision: The Commission has letter no. 15288/ F.Rv(171)PHQ/05 dated May 16, 2006 of the Director General of Police, Tripura submitted in response to the Commission's notice dated May 10, 2006 regarding appointment of the State Public Information Officers (SPIO) and the State Assistant Public Information Officers (SAPIO) under the Police Department. It appears from the said letter of DGP that a proposal was sent by PHQ to the Home Department, Government of Tripura vide their letter no. 37072/F.RV (171)/PHQ/05 dated September 6, 2005 for appointment of the SPIOs and the SAPIOs. DGP has also informed that Government notification in this regard is yet to be issued.

5.1.3.3 Section 5 of the RTI Act, 2005 provides that every Public Authority, within 100(one hundred) days of the enactment of the Act shall designate as many officers as State Public Information Officers and the State Assistant Public Information Officers to receive the applications for Information or appeals. DGP is a public authority. He is, therefore, not the recommending authority, but the designating authority. It was, therefore, obligatory on the part of the PHQ to appoint SPIOs and SAPIOs in all sub-ordinate offices under their control on or before 22.09.2005. By not doing so, they have violated the provisions of Section 5 of the RTI Act, 2005. However, the Commission in exercise of the powers conferred by Section 19(8)(a)(ii) of the Act, directs that the Director General of Police, Government of Tripura should appoint SPIOs, SAPIOs in all offices under his control and corresponding First Appellate Authorities within a period of 15 (fifteen) days from the date of issue of this order and send a compliance report to this Commission.

5.1.4.1 Point No.2: Has the complainant been denied human rights of fair and speedy investigation by the police authority?

5.1.4.2. Decision: First of all, the Commission traversed the law relating to the human rights to a citizen in India. As defined by section 2(1)(d) of the Protection of Human Rights Act, 1993 " human rights' means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India".

5.1.4.3. Again as defined by section 2(1) (f) of the said Act " International Covenants means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16th December, 1966."

5.1.4.4. Article 21 of the Constitution of India lays down that " No person shall be deprived of his life or personal liberty except according to procedure established by law."

5.1.4.5. The right to liberty and security of a person found place in Article 9 of the International Covenant on Civil and Political Rights 1966 which runs as follows:

"Article 9-1: Everyone has the right to liberty and security of person."

5.1.4.6. From the above discussion of law relating to human rights of a person in India it is clear that every person has the right to liberty and security of person which is construed to be a human right.

5.1.4.7. The factual position of the present case is that Chitta Ranjan Majumder, a fisherman, father of the complainant Miss Swapna Majumder had been missing since 19.3.1998 from his work place at Damburnagar Water Reservoir. This fact was reported by the complainant to Birganj P.S. on 11.5.1998 which was entered in the General Dairy of the P.S. vide no. 297 dated 11.5.1998. As the complainant was told that the place of occurrence in Damburnagar Water Reservoir fallen within the jurisdiction of Raishyabari P.S., the complainant lodged another information with the

subject to the condition that the person has been missing for two years or more. The effect of such benefit was given from 10.4.1998.

5.1.4.10. The above decision of the State Government made it imperative for the District Superintendent of Police to ascertain the fact as to whether the missing Chitta Ranjan Majumder was, in fact abducted by the extremists at least within the period of two years from 19.3.1998 in order to ensure the entitlement of the next of kin of said Chitta Ranjan Majumder to the benefit to be granted by the State Government in pursuance of the two notifications cited in the preceding paragraph.

5.1.4.11. Such a decision of the Government of Tripura guaranteed the human right of social security of a person who lost the earning member of the family as enshrined in the International Covenant on economic, social and cultural rights, 1966 in Article 9 which runs as thus: " The State parties to the present Covenant recognize the right of everyone to social security including social insurance".

5.1.4.12. In the present case, the Officer-In-Charge of Birganj P.S. has not communicated anything about the result of investigation to the informant i.e. the complainant within long eight years. The Officer-In-Charge of Raishyabari P.S. has also communicated nothing to the complainant about the fate of enquiry or investigation at all. Thus the complainant has been denied the human rights of fair and speedy investigation by the Police Authority, the Commission held.

5.1.5.1. Point No.(iii): Is the complainant entitled to right of access to the result of inquiry made by the Raishyabari PS about the missing of her father?

5.1.5.2. Decision: The Government of Tripura by notification has kept the Home (Police) Department out of purview of the Act except in respect of information pertaining to any allegation of corruption and human rights violations. In deciding Point No. 2 we held that the Police Authority has denied the complainant the human right of fair and speedy investigation. So the complainant has the right to know the result of the investigation, if any, done by the Officer-In-Charge of Raishyabari P.S. on the basis of the information lodged by the complainant about missing of her father Chitta Ranjan Majumder. The District Superintendent of Police of Dhalai District was also under obligation to make some enquiry to ascertain the fact whether Chitta Ranjan Majumder was abducted and killed by the extremist or not in pursuance of the Notification No.F.11 (1)-FIN (G)/94 dated 14.5.1999 of the Finance Department, Government of Tripura.

5.1.5.3. In view of the discussion made here-in-above, the Commission held that the complainant has the right of access to the information about the result of the investigation done by the Police Authority on the basis of her information lodged with the Raishyabari P.S. vide G.D. No. 27 dated 02.06.1998.

5.2.1. The Commission in complaint No-6 of 2007-08 between Sri Ramsingh Chauhan and the Director of School Education, Government of Tripura decided on 10.08.2006 the following point: -

" What shall be the consequence when a written request seeking information under the Act is misdirected and accompanied without application fee?

5.2.1. DECISIONS: It is admitted fact that the Director of School Education has received the written request of the complainant on 08.06.2006. The complainant has not produced any document in support of the payment of application fee along with the written request for information. So, we are to accept the plea of the Opposite Party that the written request was not accompanied by the application fee. Without application fee, the written request is considered to be invalid and ordinarily the Public Authority cannot be blamed for not processing the request for disposal. However, the RTI Act, 2005 casts a duty upon the Public Authority to play an active role for proper implementation of the provisions of the Act. Section 5(3) of the Act requires an SPIO or SAPIO to render necessary assistance to the requester for disclosure of information. In the instant case, although the request was not properly addressed but the Director of School Education being the head of the Public Authority should have directed the request to the appropriate SPIO of his Directorate for further processing. Of course, the Director of School Education has done so but after fifty days of receipt of the written request which could have been minimized. However, since the Director of School Education has ultimately directed the request to the SPIO and latter has taken appropriate steps for disposal of the request of the complainant, the delay caused in responding to the request deserves to be viewed leniently with the expectation that both the Public Authority and the SPIO shall be more diligent in dealing with such cases in future.

5.2.2. Equity demands equity. The complainant has not come before the Commission with a clean hand. His request for information did not accompany the application fee nor it was addressed properly. So, he has limited scope for lodging the complaint. In the circumstances, we are to hold that the complaint is liable to be dismissed.

5.3.1. The Commission decided the complaint No-2 of 2006-07 between Dr. Ashraf Khan and the Finance Department, Government of Tripura on 30.11.2006 and determined some vital points arose out of the said complaint. Brief facts of the complaint were that the complainant made a written request to the State Public Information Officer (SPIO), Finance Department (Establishment Section), Government of Tripura on 27.12.2005 as per provision of the Act for supply of two information namely; (i) the specific reason for not forwarding the pension proposal of Mr. M.A. Khan, Retd. Principal Chief Conservator of Forests, Tripura to the Accountant General, Tripura and (ii) the reason as to why Mr. M.A.Khan has not been informed about such reason for not forwarding his pension proposal to the Accountant General, Tripura. The complainant, along with his written request has also sent a currency note of Rs. 10/- as application fee with a specific mention of the same in his application. Having no response from the SPIO within the prescribed period of thirty days, the complainant preferred an appeal on 08.03.2006 to the Commissioner & Secretary, Finance Department, Government of Tripura being the First Appellate Authority [here- in- after referred to as Opposite Party (OP) No.1]. But he did not receive any response from OP No.1 too till the date of lodging the complaint. Hence, the complainant preferred this complaint to this Commission seeking the following relief by the complainant:

- (i) To issue direction for supply of the information sought for;

- (ii) To penalize concerned authorities under the Act.

5.4 OPs namely the Commissioner & Secretary to the Government of Tripura, Finance Department and others in their defense stated that the written request in issue was not properly addressed, the application fee was not properly paid rather by enclosing a currency note of Rs. 10/- along with the written request the complainant made an attempt to bribe the SPIO and the information sought for was not at all information within the meaning of section 2(j) of the Act.

5.5 The controversy raised the following points to be determined by the Commission: -

Taking into consideration the complaint, the letter of the Deputy Secretary (Finance), representations of the OP No. 1,2 and 3 and the letter of OP No.3 addressed to the complainant under Exhibit 6, the following points are required to be decided:

- (i) Is the written request dated 27.12.2005 for information sent by the complainant entertainable under the Act?
 - (ii) Has the complainant the right of access to the information as sought for?
 - (iii) Are the OP No. 1 and 2 necessary parties in this case or they are liable to be dropped?
 - (iv) Has the Commissioner & Secretary (Finance) being the head of the Public Authority of Finance Department, Government of Tripura discharged his duties and responsibilities enjoined on him under the Act to deal with the request of the complainant dated 27.12.2005 and if the remark made by the Commission about his failure to discharge such responsibilities & duties is liable to be expunged?
- i) Have the OPs acted malafide or obstructed in any way to deny the request of the complainant for information? If so, who are responsible for such actions and liable to be penalized under section 20 of the Act?

Decision:

17. The OPs challenged the maintainability of the request on three counts. Firstly, the complainant misquoted the section of the Act in his written request. Instead of mentioning section 6 of the Act, he mentioned Rule 6 of the Act. In our view, it is not necessary to mention the relevant section of the Act in the written request under which the request is made. Even if a wrong section is mentioned in the request, it should be ignored as there is only one provision in the Act for making request for information. It is the bounden duty of an SPIO to render all reasonable assistance to the requester for information according to the provisions of section 5(3) of the Act. So, the exception taken by the OPs is unwarranted and it shows their misconception about the very spirit of the Act.

18. Secondly, OP No.2 took a completely hostile attitude towards the complainant for sending a currency note of Rs. 10/- along with the request. Instead of appreciating the matter in its true perspective, he has considered it as an attempt to bribe the official. According to the Tripura Right to Information Rules, 2005 (for short the Rules), the requester is to deposit an application fee of Rs. 10/- in cash along with the written request for information. Section 6(1) of the Act provides that

the application may be sent either directly or by post or by e-mail. But the Rules provide deposit of fees only in cash. Therefore, when a written request is permitted to be sent either through messenger or courier services or by post, for sending the application fee by enclosing a currency note of Rs. 10/- along with the written request, the complainant cannot be blamed. On perusal of the written request, it is found to have been categorically stated by the complainant that Rs. 10/- has been enclosed as application fee. Had there been any irregularity in the manner of making payment of application fee, the SPIO should have asked the requester to deposit the application fee in proper manner. The very object of the Act is to establish the rights of a citizen to get information and not to punish a requester for information what actually the OP No. 2 has attempted under his letter marked Exhibit 2. So, it is not intelligible as to why OP No.2 and 3 have taken a contrary view, which is nothing but malice on their part.

19. The OP No. 3 by his letter marked Exhibit 6 addressed to the complainant returned the application fee of Rupees Ten by Bank demand draft at the expense of the public exchequer, which is contrary to the law. The application fee is non-refundable irrespective of the fact whether the application is accepted or rejected. There is no provision in the Act to refuse any application in the name of not entertainable. So, the decision taken by OP No.3 by not entertaining the request dated 27.12.2005 of the complainant and returning the application fee is absolutely against the relevant provisions of the Act and also caused revenue loss to the State Government. Another point is required to be noted that during the pendency of the complaint before the Commission as regards the merit of the request of the complainant for information, the OP No. 3 arbitrarily disposed of the request dated 27.12.2005 for information on 30.06.2006 i.e. after 185 days of the request as not entertainable without waiting for the decision of the Commission. This Commission has further noticed that though the OP No.3 has disposed of the request for information by not entertaining the very request on 30.06.2006, but the Public Authority of the Finance Department, Government of Tripura is found to have designated him as SPIO in the Finance Department vide notification No.F.10 (2)-FIN (B)/2005/2095-2114 dated 01.07.2006. This means, the contention of the OP No.1 that the request of the complainant for information dated 27.12.2005 was disposed of by the OP No.3 being designated as SPIO on 30.06.2006 is not correct.

20. Thirdly, the OPs took another excuse for not entertaining the request that the complainant addressed the request to the SPIO instead of SAPIO. This is absolutely a wrong connotation. Section 6(1) of the Act clearly provides that a person, desiring to obtain any information under the Act, shall make written request either to the SPIO or SAPIO. Under the provisions of section 5 of the Act, a Public Authority is required to designate as many officers as SPIOs for its main Administrative Unit and SAPIOs for Sub-Divisional or branch units. But the Public Authority of the Finance Department, Government of Tripura has not done so within the statutory period of one hundred days of the enactment of the Act by notifying the name, designation, address and other contact details etc. of such officers. The Commissioner & Secretary of the Finance Department, Government of Tripura being the Head of the Public Authority should have forwarded the request of the complainant to the concerned SPIO when the matter was placed before him at the very beginning. But the facts and circumstances led us to presume that instead of taking such an applicant friendly attitude, he proceeded to find faults with the complainant and allowed his

subordinate officers to take a hostile stand against the complainant. It is, no doubt, a wrong approach on the part of a Public Authority towards implementation of provisions of the Act.

21. In view of the discussion made here-in-above we are to hold that by addressing the request to the SPIO in the main office of the Finance Department directly, the complainant committed no wrong. Rather, the view taken by the OPs ventilates their lack of understanding about the relevant provisions of the Act. Thus, we find all the three excuses taken by the OPs for not entertaining the request are baseless, malafide and not justified in law. We find the request of the complainant for information to be quite in order and entertainable as per provisions of the section 6(1) of the Act.

Point No. 2.

22. The complainant made the request for the following information:

- (i) Reasons for not forwarding the pension proposal of Mr. M.A.Khan to the A.G., Tripura.
- (ii) Reasons for not informing Mr. M.A.Khan as to why his pension proposal has not been forwarded to the A.G., Tripura.

23. The contention of the OPs 1 and 2 on the issue as submitted jointly is that the authority is not supposed to explain to any applicant on certain decision so taken or ground for taking such decision. So the application does not come under the purview of the Act. They further submitted that according to the definition of '*Right to Information*', the requester can only inspect the document or obtain a copy of the document/ obtain information in diskette, floppies, tapes, video cassettes etc. Since the information sought for do not constitute any document, he is not entitled to such information.

24. The OPs have not denied the existence of the information sought for but have struck the request of the complainant at the very root of definition of '*information*' challenging that they do not at all constitute information. So, it is necessary to traverse, in this respect, the relevant provisions of law.

25. First of all, let us re-produce the definition of the term '*information*' as provided in section 2(f) of the Act, which runs as follows: -

" Information means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;"

Here information is not confined to the form of document only as contended by the OPs and it may be in any form including records. The term 'record' is defined in section 2(i) of the Act, which inter alia, includes any '*file*'. In fact, citizens queries are well covered by the definition of '*Information*' under section 2(f) of the Act and, therefore, the Public Authorities are under obligation to answer *such 'citizens queries'* if not protected under exemption clauses.

26. *'Right to Information'* has been defined in section 2(j) of the Act as thus " *right to information means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to: -*

- (i) *inspection of work, documents, records;*
- (ii) *taking notes, extracts or certified copies of documents or records;*
- (iii) *taking certified samples of material;*
- (iv) *obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;"*

27. In section 2(i) and 2(j) of the Act, the term *'includes'* has purposely been used by the legislature in order to make the definition much wider. According to the rule of interpretation, the word *'includes'* is generally used in the interpretation clauses to enlarge the meaning of words or phrases occurring in the body of statute; and when it is so used, those words and phrases must be considered as comprehending, not only such things as significant according to their natural import, but also those things which the interpretation clauses declare that they shall include. Again, the word *'includes'* is generally used as a word of extension but the meaning of a word or phrase is extended when it is said to include things that would not fall within its ordinary connotation.

28. One of the duties of Public Authority as provided in section 4(1)(d) of the Act is as follows:

"4 (1) Every Public Authority shall –

** * * * **

- d) provide reasons for its administrative or quasi judicial decisions to affected persons."*

The complainant in its request letter marked Exhibit 1 mentioned that the Finance Department itself issued clear instruction vide Memo No.F.8 (11)-F (G)/86 dated 24.2.2005 to the effect that the pension proposal of retiring employees should be sent to the Accountant General six months in advance from the date of retirement of the employees concerned so that they get pension order from the A.G. on the date of retirement. The complainant has also mentioned that Mr. M.A.Khan former PCCF retired on superannuation on 30.04.2005. The existence of such memorandum in the Finance Department has not been denied by the OPs. Moreover, this Commission has directed the OP No. 1 to produce the said memorandum before this Commission which has not been complied with. In the circumstances, we are to presume the existence of the said memorandum in the Finance Department. In view of the aforesaid memorandum of the Finance Department, Mr. M.A.Khan former PCCF has acquired the right to have his pension proposal to be forwarded to the A.G. Tripura by the Finance Department six months in advance of the date of retirement unless the State Government decides to suspend payment of pension for some certain reasons. Since it has not been done, there must have been a decision in the relevant file containing the reasons for not sending the pension proposal to the A.G. Tripura in time and this

fact ought to have been reported to Mr. M.A.Khan by the Public Authority i.e. the Commissioner & Secretary (Finance) pro-actively as per provisions of section 4(1)(d) of the Act as cited above.

29. To conclude the discussion on the second point, we are to hold that the information sought for by the complainant are certainly '*information*' within the meaning of section 2(f) of the Act and the complainant has the right of access to the information held by the Public Authority through the concerned SPIO.

Point No.3.

30. The OP No. 1 and 2 repeatedly submitted that they are not necessary parties in the complaint and the proceedings against them are liable to be dropped. They have also charged the Commission for misusing power vested on a quasi-judicial body by proceeding against them and insisting for their appearance and submission of reply in the proceedings. They have also raised the point that the proceeding further with the complaint in absence of the complainant is not permissible under the Act.

31. The complainant approached the Commission with the allegations in writing that he first submitted the request for information on 27.12.2005 to the SPIO in the Finance Department and having no response from the SPIO within the stipulated period of thirty days, he sent an appeal on 08.03.2006 to the Commissioner & Secretary (Finance), considering him to be the First Appellate Authority, who also did not respond within the prescribed period. Basing upon this allegation, the Commissioner & Secretary (Finance) and the SPIO in the Finance Department have been impleaded as the Opposite Parties by this Commission for holding the enquiry. Again, taking action on the request of the complainant under Exhibit 1, Sri D. Darlong, Deputy Secretary (Finance) has sent a letter under Exhibit 2 to the Additional Secretary, GA (AR) Department seeking his advice as to what action can be taken against the complainant for attempting to take undue advantage in the name of the RTI Act. According to the Act, it is the SPIO only who has the power to take action on the request for information preferred under section 6 of the Act. So, this Commission has rightly considered Sri D. Darlong, Deputy Secretary (Finance) as the SPIO in the Finance Department at that stage and accordingly he has been shown as OP No. 2 in this proceeding. Thus, the Commission finds no impropriety in proceeding against the Commissioner & Secretary (Finance) and Sri D. Darlong, Deputy Secretary (Finance) as the Opposite Parties for the purpose of holding the enquiry into the allegations advanced by the complainant. The purpose of impleading one, as opposite party in an inquiry proceedings is to facilitate procuring information and to give chance to the persons against whom the allegations is made to submit his representation, if any, to arrive at a correct finding.

32. In this respect we consider it useful to refer to the provisions laid down in sub section 3 and 4 of section 18 of the Act, which runs as thus:

“(3) Where the Central Information Commission or State Information Commission, as the case may be shall, while inquiring into any matter under this section, have the same powers as are

vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;*
- (b) requiring the discovery and inspection of documents;*
- (c) receiving evidence on affidavit;*
- (d) requisitioning any public record or copies thereof from any court or office;*
- (e) issuing summons for examination of witnesses ; and*
- (f) any other matter which may be prescribed.*

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament, or the State Legislature, as the case may be, the Central Information Commission or the State Information Commission as the case may be, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds”.

33. In view of the aforesaid provisions, the Commission has the ample power to implead a person as an Opposite Party inviting their representation, if any, and asking to produce necessary records and documents for the purpose of holding the enquiry and such statutory powers of the Commission cannot be challenged by anybody. So, by challenging the authority of this Commission, the OP No. 1 & 2 has demonstrated their ignorance about the relevant provisions of the Act.

34. This Commission, with a view to verify the real position in the relevant records as to the existence of the information sought for, to know the name of the officers who had dealt with the request for information and the first appeal and also to ascertain if the OPs No. 1 and 2 are the necessary parties, summoned the OP No. 1 to produce the relevant records and also to intimate the name of the officers who acted as the SPIO and First Appellate Authority in the present case. But, despite repeated directions, the OP No. 1, being the head of the public authority, has not only refrained from producing the records and intimating the information, but also challenged the power and authority of the Commission to proceed against him. So, from the deliberate violation of the directions of the Commission withholding the records and information by OP No. 1, the Commission can draw the only reasonable conclusion that the officers junior in rank to the Commissioner & Secretary (Finance) in the Finance Department acted under the direction of the latter who is at the helm of the whole affairs in dealing with the request for information and the first appeal. This inference also receives support from the fact that in total disregard to the Commission's direction, the OP No.1 & 2 all along submitted joint representations.

35. As per provisions of section 5(4) of the Act, the SPIO may seek the assistance of any other officer as he considers it necessary for the proper discharge of his duties. Again, section 5(5) of the Act provides that any officer, whose assistance has been sought under section 5(4) of the Act, shall render all assistance to the SPIO seeking his assistance and for the purposes of any contravention of the provisions of the Act, such other officer shall be treated as SPIO. Relying upon

the above provisions of the Act, it can be said that the officers who contributed in assisting the concerned SPIOs in disposing of the present request for information, are to be treated as SPIO for the purpose of contravention of the provisions of the Act. The OP No. 1 & 2 cannot deny the fact that they have contributed by participating in the process of taking action on the request for information of the complainant.

36. The contention of the OP No. 1 and 2 that the Commission should have dropped the proceedings for failure of the complainant to appear on a particular date of hearing is not based on law as according to the provisions of section 19(5) of the Act, the onus to justify the denial of request for information shall be on the SPIO who denied the request. It is admitted fact that the OPs received the request of the complainant for information. So, it is not the complainant, but the OPs are to justify the denial of information. Therefore, for the absence of the complainant on a particular date of hearing, the complaint shall not liable to be dropped or dismissed.

37. In view of the discussion made here-in-above, we are to hold that the contention of the OP No. 1 and 2 that they are not the necessary parties in this proceeding is not acceptable and they have rightly been impleaded as necessary parties in this proceeding for the purpose of holding the enquiry into the allegations brought by the complainant and that for absence of the complainant on a date of hearing, the proceeding is not liable to be dropped.

Point No.4.

38. It is admitted fact that the Public Authority in the Finance Department has received the request dated 27.12.2005 for information. Under the scheme of the Act, responsibility for implementation of the different provisions of the Act relating to disclosure of information is mainly vested on the Public Authority, which may be summarized below:

- (i) Maintenance of records by duly cataloguing, indexing, computerization and connecting through network under section 4(1)(a) of the Act;
- (ii) Pro-active disclosure of information stipulated under section 4(1)(b),4(1)(c) & 4(1)(d) of the Act;
- (iii) Providing information suo motu on regular intervals and wide dissemination of such information under section 4(2) & 4(3) of the Act;
- (iv) Making information accessible to PIO's under section 4(4) of the Act;
- (v) Designating SPIO, SAPIO and First Appellate Authority under section 5(1), 5(2) & 19(1) of the Act;
- (vi) Transfer of misdirected requests for information to the appropriate Public Authority under section 6(3) of the Act.
- (vii) Implementation of the decisions of the State Information Commission, which are binding under section 19(7) of the Act.
- (viii) Furnishing information for preparation of Annual report u/s 25(2) of the Act.

39. In the present case, this Commission noticed the following laches on the part of the head of the Public Authority in the Finance Department, Government of Tripura i.e. the Commissioner & Secretary to the Government of Tripura, Finance Department (OP No.1): -

- (i) He did not designate the SPIOs & SAPIOs within the Finance Department properly as per provisions of section 5(1) & 5(2) of the Act within the stipulated period.
- (ii) He has not redirected the first appeal of the complainant addressed to him to the appropriate First Appellate Authority in the Finance Department, which was, ought to have been done by him.
- (iii) He did not report the information sought for by the complainant, namely, the reason for not sending the pension proposal to the A.G. Tripura which he should have reported pro-actively to the affected person i.e. Mr. M.A. Khan, retired PCCF as per provisions of section 4(1)(d) of the Act at the appropriate time.
- (iv) He has also disobeyed the Commission's direction given on 24.06.2006 & 29.07.2006 for production of the records and furnishing information in violation of the provision of section 18(4) of the Act.
- (v) He has also deliberately disregarded the Commission's direction given on 17.06.2006 to submit representation severally.
- (vi) He has misled the Commission by informing that the request of the complainant for information dated 27.12.2005 was disposed of by the OP No.3 as SPIO on 30.06.2006 while the latter was, in fact, designated as SPIO by him on a subsequent date on 01.07.2006.
- (vii) His entire action in the matter seems to be aversed to the information seeker. According to the spirit of the Act, he was supposed to be applicant friendly, but he acted just reverse.

40. In view of the provisions of law and the facts narrated above, it is palpably clear as to how the OP No. 1 has failed to discharge the responsibilities enjoined on him under the Act. Despite repeated instructions by the Commission, the OP No. 1 had shown his adamancy not to respond to the summons and directions of the Commission.

41. The OP No. 1 in his representation has repeatedly submitted to expunge the remarks made against him by the Commission. But he has not specified what remark of the Commission offended him. So, this Commission refrained from making any discussion in this matter. This Commission has not made any unwarranted remarks casting aspersion to anybody. Rather the OP No. 1 & 2 in their representation under Exhibit 5 showed their disregard to the Commission. The relevant portion of the said representation is quoted below: -

" 4. That it will be a travesty of justice and a misuse of power vested on a quasi- judicial body if in such circumstances the opposite parties are further dragged to appear and submit reply in the proceeding".

Such words as used by the OP No. 1 & 2 in their joint representation reflected on the credibility of the Commission and for this, the citizens for whose benefit the Commission exists shall start doubting about the efficacy of the very system of disclosure of information.

42. The point No.4 is decided in the negative with the observations made here-in-above.

Point No.5 .

43. After careful appreciation of the facts and circumstances of the case as narrated in the preceding paragraphs, the following omissions and commissions on the part of the Opposite Parties are detected by this Commission: -

- (i) The OP No. 3 disposed of the request of the complainant dated 27.12.2005 for information by not entertaining after about six months of receipt of the request in violation of provisions of section 7(1) of the Act;
- (ii) The OP No. 3 without support of any provision of the Act arbitrarily returned the application fee in the form of bank draft by registered post at the cost of the public exchequer incurring revenue loss to the State;
- (iii) Action of the OP No.2 writing a letter under Exhibit 2 to the Additional Secretary, GA (AR) Department, Government of Tripura seeking his advice to proceed against the complainant (requester) for sending currency note of Rupees Ten being the application fee along with the written request and also for alleged attempt to take undue advantage in the name of RTI Act, 2005 demonstrated absolutely an unfriendly and vindictive attitude on the part of the OP No.2 against the requester. It amounted a malafide intension not to disclose the information rather to penalize the complainant (requester) for which there is no provision in the Act;
- (iv) The OP No. 1 being the head of the Public Authority in the Finance Department did not report the decision of the Public Authority not to send the pension proposal of Mr. M.A. Khan, retd. PCCF to the A.G. Tripura to Mr. Khan as required under section 4(1)(d) of the Act as the said decision affected the interest of the latter;
- (v) The OP No.1 being the head of the Public Authority has undertaken all the responsibilities on him by following the system of file processing in the Finance Department and giving final decision and instructing the OPs No. 2 & 3 as to what decision to be taken to dispose the request of the complainant for information and thus discharged the function of the SPIO within the meaning of section 5(5) of the Act;
- (vi) The OP No. 1 has deliberately & repeatedly disobeyed the Commission's summons withholding production of the records and furnishing information in violation of the provision of section 18(4) of the Act, which amounted creation of an obstruction to disclosure of the information.
- (vii) The OP No.1 has misled the Commission by informing that the request of the complainant for information dated 27.12.2005 was disposed of by the OP No.3 as SPIO on 30.06.2006 while the latter was, in fact, designated as SPIO by the OP No.1 on a subsequent date on 01.07.2006.

- (viii) The OP No. 1 & 2 in their joint representation dated 03.07.2006 submitted to the Commission used some unwarranted words reflecting on the credibility of a Statutory & Quasi-Judicial body like Tripura Information Commission and for this, the citizens for whose benefit the Commission exists shall start doubting about the efficacy of the system of disclosure of information.

44. Keeping in view the role played by the OPs 1,2 & 3 as discussed in the preceding paragraph, all of them are, prima-facie, found liable to be penalized under section 20(1) of the Act. As provided under first proviso to section 20(1) of the Act, the OP Nos. 1,2 & 3 have been served with the notices narrating the facts and circumstances appearing against them warranting the penalty and to show cause as to why they shall not be so penalised. In reply to the show cause notices, the three OPs submitted their written statements separately on 26.9.2006. The OP Nos 1 & 3 have also submitted rejoinders on 23.10.2006. The substance of the submission made by the three OPs are as follows:

(i) The contention of OP No. 1 is repetition of his earlier stand averred in his written statement as discussed in Para No.7 of this judgment. He added that at the relevant point of time Sri N.Das, Joint Secretary (Finance) was the SPIO in the Finance Department who disposed of the Exhibit 1 in due course on 30.6.2006. He tried to justify his act of withholding the records and information as called for by this Commission on the plea that the Information Commission has no plenary power to examine any document, which is not related to supply of any information. The OP No. 1 insisted for dropping the proceedings against him.

(ii) The contention of the OP No. 2 is that he was neither an SPIO nor an SAPIO in the Finance Department during the relevant period. He wrote the letter under Exhibit 2 at the instruction of the OP No.3 who was the SPIO at the relevant time. He pleaded his innocence.

(iii) The contention of the OP No. 3 is that he had worked in the Finance Department as a Joint Secretary between the period of 27.12.2005 and 2.7.2006. During the aforesaid period, there was another Joint Secretary named Sri D.R. Dutta. The OP No. 3 was designated as SPIO by name only on 01.07.2006 and prior to that he had never acted as the SPIO knowingly for the reason that he was not designated as SPIO by name. He added that he was not imparted with any training on the Act. He pleaded that he signed the Exhibit 6 not in the capacity of SPIO but as an officer of the Finance Department as per instruction of his superior authority. He concluded that he innocently and in good faith put his signature below Note No-17 (Exhibit 9) and in Exhibit 6 in a hurry without realising its consequence on the eve of his departure from the Finance Department on transfer. He urged for absolving him from the liability of any penalty.

45. We have considered the submissions placed by the OP Nos. 1,2 & 3 in reply to the show cause notices. It is established that the Public Authority in the Finance Department designated the SPIO on 11.10.2005 by designation without naming the officers when the OP No. 3 had not joined in the Finance Department at all. On 8.6.2006 i.e. the date of signing the Exhibit 9, there were two Joint Secretaries in the Finance Department. So, it was incumbent on the head of the Public Authority of the Finance Department to designate one of the Joint Secretaries by name to

discharge the functions of the SPIO. But it was not done. Despite repeated requisitions, the OP No. 1 did not disclose the name of the SPIO in the Finance Department before this Commission till his reply to the show cause notice.

46. We take note of two documents filed by the OP No. 2 with his reply to the show cause notice, namely photocopies of Note No. 16 dated 18.1.2006 and Note No-17 dated 8.6.2006 of the Finance Department which are marked as Exhibit No. 8 & 9 respectively. We also take note of another document namely photocopy of letter No.F.13(2)-GA(AR)/03/1481-84 dated 7.7.2006 of GA(AR) Department addressed to Sri Sapta Acharjee, Advocate in reply to show cause notice under section 80(1) of the Civil Procedure Court served on behalf of Mr. M.A. Khan, Retd. PCCF as annexed with the written reply of Op No. 1 which is marked as Exhibit 10.

47. Exhibit 8 (Note No-16) explicits that Exhibit1 was first sent to the Finance Department by the Principal Secretary vide D.O. letter No. 18621 (Principal Secretary) dated 28.12.2006 on the basis of which one dealing Assistant of the Finance Department, whose short signature is illegible, initiated the note in file with suggestion to send the application to the State Information Commission and forwarded the note marking to the Office Superintendent (Sri P. Sengupta), Deputy Secretary, Joint Secretary (SPIO) & Additional Secretary for decision instead of sending the Exhibit 1 to the concerned SPIO. So, it can be presumed that the matter was at least placed up to the Additional Secretary (Finance) who is also the First Appellate Authority of the Finance Department. Note No. 16 & 17 do not bear any file number. However, from Exhibit 2 & 6, it can be inferred that the file number would be F.10(2)-FIN(B)/2005 wherein the whole episode had been dealt with. The original file wherein the Exhibit 1 had been dealt with, despite summons to produce before this Commission, had been withheld by the head of the Public Authority of the Finance Department (OP No. 1). So, the proof of final decision taking authorities has to be inferred from the materials available on record in absence of the original records. Marking of the note as forwarded to the Joint Secretary (SPIO) comes under the words Additional Secretary, which leaves a room to believe that it was added subsequently. It is further curious that while the Note No. 16 was initiated on 18.1.2006, the next Note No. 17 was recorded by the OP No. 3 after a long gap on 8.6.2006. So, between these two notes, there might have been some note(s) of the superior officers of the Finance Department which have motivatedly been withheld. The comments of the Additional Secretary & others are missing from the Exhibit 8 & 9, which presumably have not been reflected in the photocopies of the said notes with certain motive.

48. Exhibit 9 explicits that the file notings were recorded by the OP No. 3 with reference to Note No. 16. Admittedly it is signed by the OP No. 3 who pleaded to have done so as a part of administrative function and not as an SPIO. Exhibit 6 shows that the OP No. 3 had signed it as Joint Secretary without mentioning as SPIO. It is to be noted that the intimation of rejection of any written request is to be given only by the SPIO in the format prescribed under the Tripura Right to Information Rules, 2005. In view of the non-production of the original file by the Public Authority of the Finance Department and the plea taken by the OP No. 3, we have no other alternative but to believe the contention of the OP No. 3 that he recorded the file noting under the Exhibit 9 and signed the Exhibit 6 as a part of his administrative function in compliance with the decision of the head of the Public Authority (OP No. 1).

49. In Exhibit 10, the reasons for delay in processing the pension proposal of Mr. M.A. Khan, Retd. PCCF had been explained in details. Apart from this, it had also been disclosed at Para (3) “*Finance Department took a lenient view of the matter and sanctioned provisional pension in favour of Mr. Khan on 17.5.2005. The Finance Department also requested the A.G. Tripura to extend the tenure of provisional pension and ultimately sent the final pension proposal to the A.G. Tripura on 01.02.2006.*” It shows that the materials of the information sought for under Exhibit 1 were, in fact, available with the Finance Department, but their disclosure was denied to the complainant.

50. The contents of the Exhibit 6 i.e. the letter dated 30.6.2006 of the OP No. 3 addressed to the complainant not entertaining the request for information are almost similar to the contents of the written statement submitted by the OP No. 1 on 24.6.2006. From this fact, it can be presumed that the decision of not entertaining the Exhibit 1 was taken at the highest level of the Public Authority i.e. by the OP No. 1. In such a situation, the OP No. 2 & 3 were not in a position to apply their own wisdom to take the decision at their level in the matter of disposal of the Exhibit 1. In order to remove any cloud about the material facts as to who actually had dealt with the Exhibit 1, this Commission called for the relevant file by issuing summons to the head of the Public Authority i.e. the OP NO. 1, but surprisingly he opted to withhold the file on the plea that this Commission was devoid of such power. So, from the deliberate withholding of the records, the only conclusion can be drawn is that the final decision of not entertaining the Exhibit 1 was taken by the OP NO. 1 and his subordinate officers like OP NO. 2 & 3 had simply carried out his decision. Thus, as per provisions of section 5(5) of the Act, the OP NO. 1 has virtually played the role of the SPIO for contravention of the provision of the Act denying the request for information. The malafide intention behind such denial on the part of the OP NO. 1 is well established from the fact that although the information sought for by the complainant were very much available with the Public Authority of the Finance Department as disclosed in Exhibit 10, but it was resisted and obstructed by the Public Authority i.e. the OP No. 1 for some untenable reasons.

51. From the discussion made here-in-above, it is clearly established that the OP No. 1 and the OP No. 3 being the head of the Public Authority and the SPIO respectively in the Finance Department have failed to exercise due diligence in discharging their functions and duties enjoined on them under the different provisions of the Act in dealing with this case and, therefore, are liable to be penalized under the Act. In fact, the OP No. 1 deliberately did not assist the Commission, which he was legally bound to do and also failed to explain as to why the orders of this Commission were not executed. Thereby, the OP No. 1 has caused an interruption to the proceedings and thus committed offences punishable under section 176, 187 and 228 of the Indian Penal Code. However, since the Act is in the formative stage and that in the meantime the pension proposal of Mr. M.A. Khan, Retd. PCCF, father of the complainant, which pertains to the information sought for, has already been finalized by the Finance Department and sent to the A.G. Tripura as revealed from the reply of the OP No. 1 to the show cause notice, this Commission after taking an extraordinary lenient view decides that instead of imposing penalty, OP No. 1 Sri S.K.Roy, Commissioner & Secretary, Finance Department being the head of the Public Authority and OP No. 3 Sri N. Das, Additional Director of Social Welfare & Social Education, Government of

Tripura (former Joint Secretary and SPIO of the Finance Department) should be directed to be more diligent and circumspect in future in dealing with such kind of request for information.