



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

Complaint No. 52 of 2007-08.

Sri Sujit Kumar Saha
M/S North East Seeds & Agro-Chemicals
97, H.G.B. Road (1st Floor)
Agartala- 799001
Cell Phone No- 9436121025.....Complainant

Vs.

1.Sri Rajib Roy Barman, Superintendent of Agriculture, Melaghar Agri- Sub Division, Melaghar, West Tripura (present State Public Information Officer).
2.Sri Asis Saha, Assistant Director, office of the Deputy Director of Agriculture, West Tripura District, West Tripura (former State Public Information Officer).
3.Sri Badhan Roy, Assistant Director, office of the Deputy Director of Agriculture, Dharmanager, North Tripura.....Opposite Parties

In the matter of the complaint under section 18(1)
of the Right to Information Act, 2005.

PRESENT:

1. Sri B.K.Chakraborty
State Chief Information Commissioner

2. Sri D.K.Daschaudhuri
State Information Commissioner

For the Complainant: The complainant Sri Sujit Kumar Saha himself.

For the Opposite Party No. 1 Sri Rajib Roy Barman, Superintendent of Agriculture, Melaghar Agri- Sub Division, Melaghar, West Tripura (present State Public Information Officer).

For the Opposite Party No. 2 : Sri Asis Saha, Assistant Director, office of the Deputy Director of Agriculture, West Tripura District, West Tripura (former State Public Information Officer).

For the Opposite Party No. 3 : Sri Badhan Roy, Assistant Director, office of the Deputy Director of Agriculture, Dharmanager, North Tripura.

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Date of lodging the complaint: 28.03.2008

Dates of hearing: 28.04.2008, 26.05.2008,
26.06.2008, 23.07.2008,
05.09.2008, 24.09.2008 &
24.10.2008

Date of pronouncing the judgment and order: 30.10.2008

JUDGMENT AND ORDER

Facts:

1. This complaint under section 18(1) of the RTI Act, 2005 (for short the Act) arose out of a written application dated 28.03.2008 of Sri Sujit Kumar Saha (here in after referred to as the complainant) received by this Commission on the same date. The case of the complainant is that he submitted a written request dated 25.05.2007 depositing application fee of Rs. 10/- in cash on 28.05.2007 to the State Public Information Officer (SPIO) in the office of the Superintendent of Agriculture (SA), Melaghar Agri-Sub Division seeking information, namely, payment position of long pending outstanding bills bearing Nos- 128, 290, 125, 461, 457 & 473 submitted by him. But, the concerned SPIO did not respond till the date of lodging this complaint despite several persuasions by the complainant. Hence, the complainant approached this Commission seeking appropriate redress to have access to the information sought for. The complainant along with the written application furnished photocopy of his written request dated 25.05.2007 and the money receipt towards payment of the application fee.
2. Perusal of the written request with enclosures reveals adequate grounds to take cognizance of a complaint under section 18(1) of the Act and accordingly it was registered.
3. In response to the summons, OP 1 Sri Rajib Roy Barman, SA, Melaghar Agri-Sub Division and the SPIO appeared before this Commission and submitted a written representation disclosing that the bills in respect of which the information was sought for covered the period between 1999 and 2003 AD and he could not trace out them in his office. He also disclosed that the Sri Asis Saha, Assistant Director of Agriculture now posted in the office of the Deputy Director, West Tripura District, Agartala did receive the written request of the complainant in issue but, took no step on it. Accordingly, the said Sri Asis Saha being the former SPIO was impleaded as OP 2 and was summoned to appear and submit his written representation on the complaint. The OP 2 Sri Saha appeared before this Commission and submitting a written representation divulged that the bills in respect of which the information sought for were submitted during the tenure of Sri Badhan Roy, ex - SA of Melaghar Agri- Sub Division who is now posted as

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Assistant Director in the office of the Deputy Director of Agriculture, Dharmanagar, North Tripura and he would be the best person to say about the actual status of the bills. Accordingly, Sri Roy was impleaded as the OP 3 and was summoned to appear and submit his written representation.

4. This Commission also requested the Director of Agriculture, Government of Tripura to issue necessary instructions for holding a joint enquiry into the matter by the OPs 1, 2 & 3 after consulting the records of the office of the SA, Melaghar Agri- Sub Division and, if necessary, of the Directorate of Agriculture, Government of Tripura. Accordingly, the OPs 1, 2 & 3 submitted reports before this Commission indicating the status of the bills.

5. As required by this Commission, the complainant also furnished proof of submission of the bills in the office of the SA, Melaghar Agri- Sub Division and rejoinder to his written application.

6. Heard the oral submissions made by the complainant and the OPs.

Points to be decided:

7. After due consideration of the written application with rejoinder thereto of the complainant and the written representations submitted by the OPs, the following points are required to be decided:-

- (i) Is the complainant entitled to have access to the information sought for vide his written request dated 25.05.2007?
- (ii) Did the OPs 1 & 2 commit contravention of the provisions of the Act to warrant penalty under section 20(1) of the Act? If so, what shall be the quantum of the penalty?


Reasons for decision:

8. Point No.(i): The complainant vide his written request dated 25.05.2007 wanted to know the present payment status of the long pending outstanding bills bearing Nos. 128, 290, 125, 461, 457 & 473 submitted by him on different dates to the SA, Melaghar Agri - Sub Division for making payment. After a strenuous search conducted by the OPs jointly and severally, the final written representations were submitted by the OP 1 on 23.09.2008 and by the OP 3 on 24.09.2008 before this Commission. The current status of the bills as revealed from the said two written representations of the OPs 1 & 3 are as follows: -

(i) Bill No- 457 dated 14.05.2003: It was found in the file with pass order during the month of June, 2003 but, no record towards withholding of payment was found. During the tenure of the OP 3, he sent a letter to the Block Development Officer (BDO), Kathalia for placement of fund but, no fund was received during his tenure till his release from the station on 23.09.2003. Recently, the OP 1 issued a letter to the BDO, Kathalia on 20.09.2008 in the matter.

(ii) Bills No. 125 dated 12.04.2002 and No. 473 dated 07.08.2003 : Both the bills were put up in the file on 26.08.2003 by the dealing clerk to the OP 3 when the

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latter put his comment to pass the bills and also booked the expenditure form check No- 860447 dated 07.02.2003 received from the BDO, Boxanagar. But, the said bills were not found in the file and no record was also found in the relevant bill register and cash book towards payment of the bills during enquiry.

(iii) Bill No. 128 dated 17.12.1999: The bill was put up in the file by the dealing clerk on 16.02.2000 when the OP 3 instructed to pass the bill and to book the expenditure from the GIA bill under the scheme NWDPR. But, the bill was not found available in the file and no record was also found in the cash book towards payment of the bill, during enquiry.

(iv) Bills No. 290 dated 12.12.2000 and No. 461 dated 11.01.2003: Those bills were stated to be received by the receiving clerk but, the bills were not found traceable in the office of the SA, Melaghar Agri- Sub Division. It was submitted by the OP 1 that the then Agri Assistant Sri Kartik Dey was entrusted with docket and despatch on 28.02.2001, on which the bill No. 290 dated 12.12.2000 was received. He further submitted that the then staff Sri Dhiman Ch. Das, LDC was entrusted with docket and despatch on 12.06.2003, on which the bill No- 461 dated 11.01.2003 was received. Both the staffs mentioned above were asked to clarify the matter and it was referred to the Director of Agriculture, Government of Tripura for the next course of action.

9. From the above factual position of the bills, their present status could be ascertained by the OP 1 being the SPIO. As regards disclosure of the information sought for by the complainant, no objection was raised by the OPs 1 & 2. We also do not find any legal bar in making the disclosure of the above information. So, we hold that the complainant is entitled to have access to the information, which the OP 1 being the SPIO shall disclose to the complainant within a period of 15 days from the date of passing of this judgment and order free of charge since the information could not be provided by the SPIO within the statutory period of 30 days.

10. Point No.(ii): It is admitted by the OP 2 in his written representation dated 26.05.2008 that he received the written request in issue together with the application fee on 28.05.2007 but, he took no step on the said written request due to his ignorance of the relevant provisions of the Act since he was not imparted with any training on the Act. He also disclosed that he was released on transfer from Melaghar Agri – Sub Division on 30.10.2007. It is also in the record that since then the OP 1 has been functioning as the SA of Melaghar Agri – Sub Division and the SPIO of the said office. Thus, the facts revealed that none of the OPs 1 & 2 did respond to the written request seeking information of the complainant in issue within the statutory period of 30 days from the date of submission. So far neither the OP 1 nor OP 2 advanced any satisfactory explanation for their failure to abide by the mandatory provisions of the Act to provide the information within the period of 30 days as prescribed under section 7(1) of the Act. Taking a prima-facie view by this Commission that both the OPs 1 & 2 have violated the provisions of section 7(1) of the Act, they were asked to show cause as to why they shall not be penalized under section 20(1) of the Act

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for such violation and they were also given the opportunity of being heard as required under the first proviso to section 20(1) of the Act.

11. In response to the show cause notices, both the OPs 1 & 2 submitted their respective written replies. OP 1 Sri Rajib Roy Barman in his reply stated that he took over the charge of the office of the SA of Melaghar Agri – Sub Division on 30.10.2007 from the OP 2 Sri Asis Saha when the fact of pendency of the written request in issue was not mentioned in the successor note. He came to know about the pendency of the written request in issue only after receiving the summons from this Commission in connection with the present complaint. That apart, he confessed that he was not fully aware of the provisions of the Act and the Tripura Right to Information Rules, 2008 (for short the Rules) and he begged apology for whatever lapses committed by him in dealing with the written request in issue.

12. OP 2 Sri Asis Saha in his written reply submitted that on receipt of the written request in issue on 28.05.2007, he took necessary steps to apprise himself of the matter as he was not aware of the bills in question pertaining to the information, which were related to the period of 1999-2003 AD. However, steps were taken by him to link up the bills for arranging payment, but in spite of all efforts, only one bill bearing No- 394 dated 06.05.2003 amounting to Rs. 29,725/- could be traced out among 7 bills and that was intimated to the complainant over telephone and necessary payment was also made, but in respect of the remaining 6 bills, no settlement could be made. OP 2 Sri Saha admitted that he was not aware of the provisions of the Act about his obligation to intimate the party within the period of 30 days from the date of receipt of the written request seeking information and for that unintentional delay, he apologized before this Commission.

13. After careful appreciation of the submissions placed by both the OPs 1 & 2, we do not find any malafide intention of not attending the written request in issue on the part of the OP 1 Sri Rajib Roy Barman, SA, Melaghar Agri- Sub Division since the fact of pendency of the written request in issue was not mentioned in the successor note at the time of his taking over the charge of the office of the SA of Melaghar Agri – Sub Division on 30.10.2007. So, we find no reasonable ground to impose penalty upon the OP 1. As regards the lapses committed by the OP 2 Sri Asis Saha, Assistant Director of Agriculture, office of the Deputy Director, West Tripura District, he is found to be in complete disregard to the provisions of the Act and the Rules. Records reveal that he was designated as SPIO in the year 2006 and, therefore, he was supposed to equip himself with the knowledge about the duties and responsibilities of an SPIO as prescribed in the Act and the Rules. However, Sri Saha admitted his lapses on the plea of ignorance and begged to be excused. The steps taken by the OP 2 for giving redress to the complainant by way of making payment of the bills pertaining to the information sought for on the basis of the written request under the Act is completely a misconception. Being an SPIO, for disposal of the request seeking information, he was under obligation only to provide the information as sought for subject to the exemption clauses under section 8(1) of the Act and not to

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redress any kind of problem of the applicant. In the instant case, the OP took steps for making payment of the bill, which was not a duty of an SPIO on the basis of the written request seeking information. Considering the admission of committing laches by the OP 2 and since it is the first occasion for him to deal with the written request under the Act, we are inclined to take an extraordinary lenient view with a strong warning that he should be very careful in future whenever any occasion arises to work as an SPIO in dealing with the written request seeking information under the Act.

Decision:

14. In fine, the complaint is allowed on contest with the following orders:-

- (i) OP 1 Sri Rajib Roy Barman, SA, Melaghar Agri – Sub Division and the present SPIO is directed to provide the information to the complainant as sought for vide latter's written request dated 25.05.2007 in the light of the discussions made in paragraphs 8 and 9 above within a period of 15 days from the date of passing of this judgment and order free of charges as the SPIO could not furnish the information to the complainant within the statutory period. A report of compliance shall be sent to this Commission.
- (ii) OP 2 Sri Asis Saha, Assistant Director of Agriculture, office of the Deputy Director, West Tripura District, Agartala and the former SPIO is warned to be more careful in future whenever occasion arises for him to work as an SPIO in dealing with the written request seeking information strictly in adherence to the relevant provisions of the Act and the Rules.

15. We consider it expedient to direct the Director of Agriculture, Government of Tripura, Agartala being the head of Public Authority to take appropriate disciplinary action against the officials responsible for missing of the two bills as discussed in the judgment and the action taken thereof shall be intimated to this Commission within a period of three months from the date of passing of this judgment and order. He is also requested to make immediate arrangement for imparting adequate training to all the stakeholders, namely, the First Appellate Authorities, the SPIOs and the SAPIOs under his control on functioning with the Act and the Rules. He is further requested to make proper arrangements for effective management of the records in all the offices under his control as required under section 4(1)(a) of the Act.

16. Let copy of this order be sent to the complainant, the OPs 1,2 & 3 and the Director of Agriculture, Government of Tripura being the head of the Public Authority.

17. Pronounced.

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

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

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Authenticated

P. Chakraborty
 (P. Chakraborty)
 Secretary

Tripura Information Commission

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

Complaint No- 52 of 2007-08 / 1312-16

Dated, 30.10.2008

Copy to:-

1. Sri Sujit Kumar Saha, M/S North East Seeds & Agro-Chemicals, 97, H.G.B. Road (1st Floor), Agartala- 799001, (Complainant).
2. Sri Rajib Roy Barman, Superintendent of Agriculture, Melaghar Agri- Sub Division, Melaghar, West Tripura (present State Public Information Officer)-OP 1.
3. Sri Asis Saha, Assistant Director, office of the Deputy Director of Agriculture, West Tripura District, West Tripura (former State Public Information Officer)-)OP 2.
4. Sri Badhan Roy, Assistant Director, office of the Deputy Director of Agriculture, Dharmaganagar, North Tripura – OP 3.
5. The Director of Agriculture, Government of Tripura, Agartala (Head of the Public Authority),

P. Chakraborty
 (P. Chakraborty)
 Secretary

Tripura Information Commission