



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

Appeal No TIC-28 of 2008-09.

Sri Arun Nath  
Journalist  
Tripura Observer  
Laxmi Narayan Bari Road  
Agartala  
Phone No- 232 3508.....Appellant

Vs.

1.Sri S.M.Lodh, Secretary, Tripura Legislative Assembly, Agartala ( First Appellate Authority).  
2.Sri S.B.Deb Barma, Deputy Secretary, Tripura Legislative Assembly, Agartala (State Public Information Officer).  
.....Respondents

In the matter of a second appeal under section 19(3)  
of the Right to Information Act, 2005.

**PRESENT:**

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

2. Sri D.K.Daschadhuri  
State Information Commissioner

For the Appellant: The appellant Sri Arun Nath himself.

For the Respondent No.1: Sri S.M.Lodh, Secretary, Tripura Legislative Assembly, Agartala (First Appellate Authority).

For the Respondent No.2 : Sri S.B.Deb Barma, Deputy Secretary, Tripura Legislative Assembly, Agartala (State Public Information Officer).

Date of lodging second appeal : 22.10.2008

Dates of hearing of second appeal: 19.11.2008

Date of pronouncing judgment and order: 02.12.2008

**JUDGMENT & ORDER**

**Facts:**

1. This second appeal under section 19(3) of the RTI Act, 2005 (for short the Act) arose out of a memorandum of second appeal dated 22.10.2008 of Sri Arun



Nath (here in after referred to as the appellant) received by this Commission on the same date. Facts leading to this second appeal are that the appellant submitted a written request on 08.08.2008 to the State Public Information Officer (SPIO) in the Tripura Legislative Assembly (TLA), Agartala seeking two items of information under the Act, which was replied to by Sri S.B. Deb Barma, Deputy Secretary, TLA and the SPIO on 18.09.2008. Being dissatisfied with the information provided by the concerned SPIO, the appellant lodged a first appeal on 24.09.2008 with the Secretary, TLA, Agartala being the First Appellate Authority (FAA) seeking direction for providing adequate information and to take action for making delay in disclosure of the information. In response to the first appeal, Sri S.B. Deb Barma, Deputy Secretary, TLA and the SPIO vide his letter No.F.8(33)-A/SECTT/LIB/808 dated 03.10.2008 communicated to the appellant that the former was directed to inform the appellant that they ( TLA Secretariat ) had nothing to add more than what had been replied earlier in their letter of even number dated 18.09.2008. Being aggrieved with the above, decision, the appellant preferred this second appeal before this Commission seeking appropriate reliefs to have access to adequate and complete information and also to take steps to uphold the spirit of the Act. Along with the memorandum of second appeal, the appellant furnished photocopies of the relevant papers.

2. On perusal of the memorandum of second appeal with enclosures, it was found in form and within time and accordingly, was registered as a second appeal under section 19(3) of the Act.

3. In response to the summons, the Respondent 1 Sri S.M.Lodh, Secretary, TLA, Agartala being the FAA and Sri S.B. Deb Barma, Deputy Secretary, TLA, Agartala being the SPIO appeared and submitted a joint written representation. The Respondent 2 also submitted an additional written representation.

4. Heard oral submissions made by the appellant and the Respondents.

**Issues for decision:**

5. In consideration of the facts and the circumstances of the case, the following issues require decisions:-

- (i) Are the impugned decisions of the Respondents 1 & 2 being the FAA and the SPIO respectively maintainable?
- (ii) If the information provided by the Respondent 2 being the SPIO are adequate and if not, to what further information the appellant is entitled ?
- (iii) If the Respondents 1 & 2 committed any contravention of the provisions of the Act to warrant any penalty under section 20(1) of the Act?

**Reasons for decision:**

6. Issues No.(i) & (ii): For the sake of convenience, both the issues are taken together for discussion. We have carefully examined the memorandum of

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second appeal with enclosures, the joint written representation of the Respondents 1 & 2, the additional written representation of the Respondent 2 and also considered the oral submissions placed by both the parties. The description of the information sought for by the appellant vide his written request dated 08.08.2008 and the information provided by the Respondent 2 being the SPIO on 18.09.2008 are given below:-

Particulars of the information sought for by the appellant	Reply given by the Respondent 2 being the SPIO
1) Higher Education Minister introduced Tripura Bill No-8 of 2005 in the Assembly Session in which date and what he said during laying of the Bill.	The Institute of Chartered Financial and Analysts of India University, Tripura (Amendment) Bill, 2005 (Tripura Bill No-8 of 2005) was introduced in the House on 30.09.2005 by voice vote.
2) Subsequently, the Higher Education Minister withdrew the said Bill. The date in which he withdrew the Bill and what he said during withdrawal of the Bill.	The said Bill was under consideration of the House on 4 <sup>th</sup> October, 2005. But during consideration some Members requested the Minister-in-charge of Higher Education Department in the House to keep the Bill pending as the Government wanted to re - examine it. Subsequently, by the order of the Hon'ble Speaker, TLA on 20.03.2006 the Bill was withdrawn.

7. The appellant challenged the replies provided by the Respondent 2 being the SPIO to be insufficient and sought for adequate and complete information. In their joint written representation, both the Respondents 1 & 2 advanced completely different picture about the information sought for by the appellant. In regard to the first information sought for, it is stated that the Higher Education Minister on 30.09.2005 while introducing the said Bill wanted permission of the House for introduction of the Bill and accordingly, the House permitted the Minister to introduce the Bill and it was introduced by voice vote. An extract copy of the relevant portion of the proceedings dated 30.09.2005 containing the statement of the concerned Minister-in-charge was also enclosed along with the joint written representation. In regard to the second item of information sought for by the appellant, the Respondents 1 & 2 submitted that the said Bill was under consideration of the House on 4<sup>th</sup> October, 2005 when some Members raised objection and requested to keep the Bill pending. The Minister-in-charge of the Higher Education Department accordingly, made submission to keep the Bill pending for re - examination. The Hon'ble Speaker agreed to the proposal and kept the Bill pending. The extract copy of the relevant portion of the proceedings was also enclosed with the joint written representation of the Respondents. It was further stated that subsequently on 18<sup>th</sup> March, 2006, the Minister-in-charge of the Higher Education Department wrote a letter to the Hon'ble Speaker, TLA giving notice of his intention to move the motion during the 9<sup>th</sup> Session of 10<sup>th</sup> TLA that the said Bill which was introduced on 30<sup>th</sup> September,





2005 and lying pending be taken into consideration and be passed. In reply to the above notice, the Hon'ble Speaker, TLA directed that the Bill should be withdrawn first and accordingly, the Commissioner & Secretary to the Government of Tripura, Higher Education Department was informed by the TLA, Agartala vide letter No.F. 7(10-7)-LA/2005 dated 07.04.2006 that the Bill cannot be moved in the House for consideration and passing at that stage and hence, the Bill was required to be withdrawn. The Respondents furnished copies of the above two letters before this Commission along with their joint written representation. After careful appreciation of the factual position narrated above, we find a marked difference between the information provided to the appellant by the SPIO on 18.09.2008 and the position described by the Respondents 1 & 2 in their joint written representation dated 14.11.2008 submitted before this Commission on the same date, which palpably shows that the information provided by the Respondent 2 being the SPIO on 18.09.2008 were inadequate and to some extent not correct since the SPIO provided the information that the Bill was withdrawn, but in fact, the Bill has not at all been withdrawn till date. In view of the discussions made here in above, we are constrained to hold that the Respondent 2 being the SPIO provided inadequate and incorrect information to the appellant on 18.09.2008 and by upholding the decision of the Respondent 2, the Respondent 1 being the FAA committed similar mistake. So, the decisions of both the Respondents 1 & 2 are not at all maintainable and liable to be set aside.

8. The appellant under first item of information sought for the date of introduction of the Tripura Bill No-8 of 2005 and the submission made by the Minister-in-charge of the Higher Education Department before the House of TLA at the time of introduction. The SPIO although mentioned the date, but he did not provide the copy of the submission made by the concerned Minister-in-charge as appeared in the proceedings of the House, copy of which was furnished by the Respondents before this Commission. The SPIO should have either furnished such copies or communicated the contents of the relevant portion of the proceedings to the appellant against the first item of the information sought for by the appellant. As regards the second item of information, it is clear from the joint written representation made by the Respondents that the Respondent 2 being the SPIO furnished incorrect information saying that the Bill was withdrawn, which was in fact, not withdrawn. The factual position as narrated by the Respondents in their joint written representation dated 14.11.2008 should have been communicated to the appellant in response to the queries made by him under the second item of information. Thus, the appellant is entitled to have access to the above two information as narrated by the Respondents in their joint written representation dated 14.11.2008.

9. Issue No.(iii): It is alleged by the appellant that the Respondent 2 being the SPIO committed contravention of the provisions of the Act by causing delay in providing the information and also by providing incorrect information. The Respondent 2 in his additional written representation submitted before this Commission explained that while furnishing the information to the appellant, it

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was inadvertently stated by him that the ICFAI Bill was withdrawn, which was fact not withdrawn and due to misconception, the words 'required to be' were omitted. However, he did not advance any explanation for causing delay in providing the information. Records show that the written request seeking information was submitted on 08.08.2008 and the information was provided on 18.09.2008. Thus, about 10 days delay was caused in providing the information since the statutory period for providing the information is 30 days only as per provisions of section 7(1) of the Act. However, the appellant did not insist for imposition of penalty for such contravention of the provisions of the Act by the Respondent 2. Considering the frank admission of the Respondent 2 that he was not imparted with any training on the Act and it was his first case for disposal, we are inclined to view his latches leniently with the warning that he should be more careful in future in dealing with any written request seeking information under the Act.

10. As regards disposal of the first appeal by the Respondent 1 being the FAA, he committed glaring mistake by not making any hearing on the appeal giving notices to both the parties and providing a chance of hearing them in accordance with the principle of natural justice, which are the primary requirements for exercising quasi judicial powers by the FAA in disposal of a first appeal under section 19(1) of the Act. However, the Respondent 1 admitted that the irregularities committed by him were due to misconception. There exists no provision in the Act for penalizing the FAA for committing any such irregularities. But, it is imperative for the FAA to act strictly following the relevant provisions of the Act in the interest of natural justice. Both the Respondents are, therefore, directed to be more circumspect in future in dealing with any request seeking information and the first appeal strictly in adherence to the relevant provisions of the Act and the Right to Information Rules under the Act if any, framed by the Hon'ble Speaker, TLA being the competent authority under section 28 of the Act.

11. We are also constrained to put it on record for future guidance of the Respondents 1 and 2 that the FAA and the SPIO are two separate stakeholders having distinct powers and duties to discharge as prescribed in the Act. The decision taken by the SPIO on a written request seeking information quasi-judicially is subject to review on appeal by the FAA quasi-judicially. So, their stand on their respective decisions or submission before this Commission cannot be in the same tune as the Respondents 1 and 2 have made in their joint written representation submitted on 14.11.2008. So, the Respondents 1 and 2 are directed to keep it in mind in future in placing their representations before this Commission in course of hearing of a second appeal/ complaint.

**Decision:**

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



- (i) The decisions dated 18.09.2008 of the Respondent 2 being the SPIO and that of dated 03.10.2008 of the Respondent 1 being the FAA are set aside.
- (ii) The Respondent 2 being the SPIO is directed to provide information afresh to the appellant in the light of the discussions made in paragraph - 8 above within a period of 10 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 as prescribed by the Act.

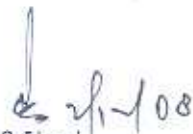
13. Let copy of this judgment and order be sent to the appellant and the Respondents 1 & 2.

14. Pronounced.

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

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

Authenticated

  
(S.C.Saha)  
Secretary

Tripura Information Commission

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

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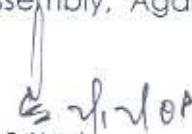
Appeal No- 28 of 2008-09/1461-63

Dated, 02.12.2008

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Copy to:-

- 1.Sri Arun Nath, Journalist, Tripura Observer, Laxmi Narayan Bari Road, Agartala (Appellant).
- 2.Sri S.M.Lodh, Secretary, Tripura Legislative Assembly, Agartala ( First Appellate Authority).
- 3.Sri S.B.Deb Barma, Deputy Secretary, Tripura Legislative Assembly, Agartala (State Public Information Officer).

  
(S.C.Saha)  
Secretary  
Tripura Information Commission