



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

Appeal No TIC-19 of 2008-09.

Smt. Namita Saha
W/O Sri Birendra Ch. Saha
M.G.Bazar (near Lotus Club)
Agartala- 799001
Cell Phone No- 9436565283.....Appellant

Vs.

1.Sri R.C.Poddar, Chief Executive Officer, Agartala Municipal Council, Agartala
(First Appellate Authority).
2.Sri Santosh Das, Officer on Special Duty, Agartala Municipal Council, 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.Daschaudhuri
State Information Commissioner

For the Appellant: Sri Bhaskar Banik for and on behalf of the
appellant duty authorized.

For the Respondent No.1: Sri R.C.Poddar, Chief Executive Officer, Agartala
Municipal Council, Agartala (First Appellate
Authority).

For the Respondent No.2 Sri Santosh Das, Officer on Special Duty, Agartala
Municipal Council, Agartala (State Public Information
Officer

Date of lodging second appeal : 12.08.2008

Dates of hearing of second appeal: 15.09.2008 & 25.09.2008

Date of pronouncing judgment and order: 12.11.2008

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 12.08.2008 of Smt. Namita Saha (here in after referred to as the appellant) received by this

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Commission on the same date. Facts leading to this second appeal are that the appellant submitted on 07.06.2008 a written request seeking information under the Act to the State Public Information Officer (SPIO) in the Agartala Municipal Council (AMC), Agartala, in response to which Sri Santosh Das, Officer on Special Duty (OSD), AMC, Agartala and the SPIO provided some information to the appellant. Being aggrieved with the information provided by the concerned SPIO, the appellant preferred a first appeal on 11.07.2008 to the First Appellate Authority (FAA) in the AMC, Agartala. Sri R.C.Poddar, Chief Executive Officer (CEO), AMC, Agartala and the FAA decided the first appeal on 19.07.2008 upholding the decision of the concerned SPIO. Being aggrieved with the above decision of the FAA, the appellant preferred this second appeal before this Commission seeking appropriate redress to have complete and correct information as sought for vide her written request dated 07.06.2008. Along with the memorandum of appeal, the appellant furnished photocopies of the relevant papers.

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

3. In response to the summons, the Respondent 1 Sri R.C.Poddar, CEO, AMC, Agartala and the FAA and the Respondent 2 Sri Santosh Das, OSD, AMC, Agartala and the SPIO appeared and submitted their respective written representations.

4. Heard oral submissions placed by the representative of the appellant and both the Respondents.

Issues for decision:

5. In consideration of the facts and the circumstances of the case, the following issues are required to be decided:-

- (i) Are the decisions dated 30.06.2008 of the Respondent 2 being the SPIO and that of dated 21.07.2008 of the Respondent 1 being the FAA maintainable?
- (ii) If the appellant is entitled to any further information in response to her written request dated 07.06.2008?

Reasons for decision:

6. For the sake of convenience both the issues are taken together for discussion.

7. **Issues No (i) & (ii):** We have carefully perused the memorandum of second appeal, the information provided by the Respondent 2 and the written representations of both the Respondents. The information sought for by the appellant in the form of queries vide her written request dated 07.06.2008 and

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the information provided by the Respondent 2 being the SPIO vide his communication No.3514/F-(Vol-III)/20/PUB/AMC/05 dated 30.06.2008 are noted below:-

Queries made by the appellant	Information furnished by the SPIO
1. What action Agartala Municipal Council has taken for removal of illegal part of construction of Sri Amulya Ghosh as requested for removal vide my prayer dated 03.08.2007 which was received by the Agartala Municipal Council under Docket no. 2395 dated 03.08.2007.	Action taken –(i) Hearing taken on 11.09.2007 at 11-00 A.M. (ii) As per verbal instruction by the authority in the hearing both the parties attended and Sri Amulya Ghosh was asked orally to remove the illegal part of structure.
2. The reason for not removing the said illegal part of construction of Sri Amulya Ghosh.	Action taken- The removal of structure is under process.
3. By which date AMC will remove the said illegal part of construction of Sri Amulya Ghosh.	Action will be taken as early as possible.
4. Who is responsible for not taking appropriate action on my prayer dated 03.08.2007.	Decision kept pending as both the parties occupied excess land.
5. What action AMC contemplates against the erring Authority for not taking action for removal of illegal part of construction of Sri Amulya Ghosh and by which date- the process of action would be completed and intimated to the requester.	Action shall be taken after finalization of Touji land of each party.

8. The appellant agitated that the information provided by the Respondent 2 being the SPIO were inadequate, misleading and incorrect. We have appreciated the information provided by the Respondent 2 being the SPIO as mentioned above. After a plain reading of the information provided by the Respondent 2, we find them to be not appropriate and to some extent were inconsistent. So, this Commission required the Respondent 1 being the head of the Public Authority as well as the FAA of the AMC, Agartala to cause a fresh look into the matter and submit a detailed report showing the present status of the representation dated 03.08.2007 of the appellant submitted to the AMC, Agartala praying for removal of the alleged illegal construction done by Sri Amulya Ghosh on the land of the appellant. Accordingly, the Respondent 1 caused a fresh enquiry into the matter and thereafter submitted a detailed additional representation on 25.09.2008 before this Commission vide his communication No.8185/F VII-6(Vol-I)/RTI/AMC/07 dated 24.09.2008 showing the steps taken and the replies to the queries made by the appellant vide her written request dated 07.06.2008, which are re-produced below:

Queries made by the appellant	Information furnished by the FAA
1. What action Agartala Municipal Council has taken for removal of illegal part of	1. Action taken- i. Hearing taken on 11.09.2007 at 11.00 a.m.

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construction of Sri Amulya Ghosh as requested for removal vide my prayer dated 03.08.2007 which was received by the Agartala Municipal Council under Docket no. 2395 dated 03.08.2007.	ii. As per verbal instruction by the Authority in the hearing both the parties attended and Sri Amulya Ghosh was asked orally to remove the illegal part of structure.
2. The reason for not removing the said illegal part of construction of Sri Amulya Ghosh.	2. Since Sri Amulya Ghosh did not remove on oral request, the matter of removal was processed, by the AMC. But, as it was noticed during field enquiry that there were still some confusions regarding the construction of Sri Amulya Ghosh, the matter was getting delayed.
3. By which date AMC will remove the said illegal part of construction of Sri Amulya Ghosh.	3. From the report of the last physical inspection done by the staff of Agartala Municipal Council dated 02.09.2008 it is seen that the said construction of Sri Amulya Ghosh is not illegal. Since, he has been possessing only the allotted land and Smt. Saha as requested by both the parties the resurvey will be done after Durga Puja and date of hearing will also be fixed by the Assessor, AMC for further hearing for disposal of the matter.
4. Who is responsible for not taking appropriate action on my prayer dated 03.08.2007.	4. Decision for removal was delayed as both the parties were occupying access land as reported at that time. There were some confusions regarding the said construction/ occupation of land etc. The detailed verification was made and actually no staff was responsible for non compliance.
5. What action AMC contemplates against the erring Authority for not taking action for removal of illegal part of construction of Sri Amulya Ghosh and by which date the process of action would be completed and intimated to the requester.	5. Action against the assigned officials for non removal of the construction/ erection could not taken as there were some confusions regarding the actual possession of land by both the parties.

9. After a comparison between the replies furnished by the Respondents 1 & 2 to the queries made by the appellant, we found marked differences. In the earlier one, it was stated that both the parties were in possession of excess land and the matter was under investigation. In the latter report, it has categorically been stated that the construction done by Sri Amulaya Ghosh was found not illegal. However, the land in possession of both the parties will be re-surveyed and final decision will be taken after Durga Puja. In view of the latest position submitted by the Respondent 1 vide his report dated 24.09.2008 as narrated at para - 8 above, we think that if these information are provided to the appellant in response to her written request dated 07.06.2008, it should suffice. Thus, the decisions dated 30.06.2008 of the Respondent 2 and dated 19.07.2008 of the

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Respondent 1 are not maintainable and liable to be modified as discussed here in above.

Decision:

10. In fine, the appeal is allowed on contest. The Respondent 2 being the SPIO is directed to furnish further information to the appellant in the light of the discussions made in the preceding paragraphs within a period of 15 days from the date of passing of this judgment and order and a report of compliance shall be sent to this Commission.

11. Let copy of this order be sent to the appellant and the Respondents.

12. Pronounced.

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

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

Authenticated


(P. Chakraborty)
Secretary
Tripura Information Commission

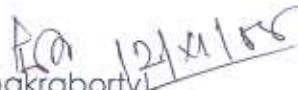
Tripura Information Commission
P. N. Complex; Gorkhabasti ; Agartala

Appeal No- 19 of 2008-09 / 1356-58

Dated, 12.11.2008

Copy to:-

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- 2.Sri R.C.Poddar, Chief Executive Officer, Agartala Municipal Council, Agartala (First Appellate Authority).
- 3.Sri Santosh Das, Officer on Special Duty, Agartala Municipal Council, Agartala (State Public Information Officer).


(P.Chakraborty)
Secretary
Tripura Information Commission