



IN THE TRIPURA INFORMATION COMMISSION
P. N. Complex: Gorkhabasti : Agartala

Complaint No 29 of 2008-09.

Sri Gobinda Majumder
S/O Sri Barada Majumder
Vill.- Champaknagar
P.O.- Motai, Belonia,
South Tripura.....

Complainant

Vs.

1.Sri Gautam Majumder, Superintendent of Agriculture, Rajnagar Agri Sub-Division, Belonia (near Belonia College) South Tripura (State Public Information Officer).
2.Sri Sukhlal Baidya, Deputy Director of Agriculture, Directorate of Agriculture, Government of Tripura, Agartala (State Public Information Officer).

.....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: Sri Jiban Krishna Sen, Advocate for the complainant
duly authorized.

For the Opposite Party 1: Sri Gautam Majumder, Superintendent of Agriculture,
Rajnagar Agri Sub-Division, Belonia (near Belonia
College) South Tripura (State Public Information
Officer).

For the Opposite Party 2: Sri Sukhlal Baidya, Deputy Director of Agriculture,
Directorate of Agriculture, Government of Tripura,
Agartala (State Public Information Officer).

Date of lodging the complaint: 25.08.2008

Dates of hearing: 25.09.2008 , 24.10.2008 and 26.11.2008

Date of pronouncing the judgment: 17.12.2008



JUDGMENT AND ORDER

Facts:

1. This complaint arises out of a written application dated 22.08.2008 of Sri Gobinda Majumder (here in after referred to as the complainant) sent by post and was received by this Commission on 25.08.2008. The case of the complainant is that he made two separate written requests seeking information under the RTI Act, 2005 (for short the Act) depositing application fee. Under the first request dated 16.08.2007 (received by the concerned SPIO on 17.08.2007), he sought for answer to the queries - " Reasons for not considering the appeal for changing place of posting as Casual Worker by office letter No.F.2(126)-Agri/SAR/Estt/88-89/1097-1100 dated 05.04.1989 and the reason though the Director of Agriculture issued re-engagement order vide office letter No.F.2(136)-Agri (Estt)/186-87 dated 30.05.1990 but, the Superintendent of Agriculture (SA), Belonia has not given chance. But no reply in spite appeal 10/12 times within 15 years", from the State Public Information Officer (SPIO) in the office of the Director of Agriculture, Government of Tripura, Agartala. Under the second written request dated 19.03.2008, the complainant sought for the following information from the SA, Rajnagar Agri Sub-Division being the SPIO:-

Copies of letters

- (i) No.F.2(136)/Agri/SAR/Estt/86-87 dated 05.04.1989
- (ii) No.F.2(126)/Agri/SAR/Estt/88-89/1097-1100 dated 24.05.1989
- (iii) Re-engagement order No.F.2(136)- Agri/Estt/86-87 dated 30.05.1990 issued by the Director of Agriculture
- (iv) Self application within stipulated date of joining 15.06.1989.

2. It is alleged by the complainant that none of the above two SPIOs responded to his two written requests till the date of lodging the written complaint. Hence, the complainant approached this Commission seeking appropriate redress to have access to the information sought for.

3. Along with the written complaint, copies of the written requests and the money receipts towards payment of application fee in issue were not furnished by the complainant. So, he was asked to furnish such copies before this Commission, which he complied with on 24.10.2008. Thereafter, taking the written application and other papers into consideration, prima-facie grounds were found to take cognizance of a complaint under section 18(1) of the Act and was registered accordingly.

4. In response to the summons, the OP 1 Sri Gautam Majumder, SA, Rajnagar Agri Sub-Division, Belonia, South Tripura and the SPIO and OP 2 Sri Sukhlal Baidya, Deputy Director of Agriculture, Directorate of Agriculture, Government of Tripura, Agartala and the SPIO appeared and submitted their respective written representations. Both of them also submitted additional written representations

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explaining the reasons for not providing the information to the complainant within the statutory period.

5. Keeping the facts and the circumstances of the case in view, it was considered expedient to hear the complaint in presence of the Director of Agriculture, Government of Tripura being the head of the Public Authority and as required by this Commission, Dr. S.N.Sen, Director of Agri-Horti-SLUB, Government of Tripura appeared and the final hearing was held in his presence on 26.11.2008.

6. Heard oral submissions made by Sri Jiban Krishna Sen, Ld. Advocate for and on behalf of the complainant duly authorized and also the OPs 1 & 2.

Points for decision:

7. Considering the facts and the circumstances of the case, the following points require decision:-

- (i) Is the complainant entitled to have access to the information sought for?
- (ii) Are the OPs 1 & 2 being the SPIOs committed any contravention of the provisions of the Act to warrant penalty under section 20(1) of the Act?

Reasons for decision:

8. Point No.(i): The description of the information sought for by the complainant are depicted in paragraph -1 above and for the sake of brevity, those are not repeated here. The OP 2 was requested to reply to the queries made by the complainant i.e. the reason for not considering his application for changing his place of posting as Casual Worker etc. The OP 2 did not challenge the entitlement of the complainant for having access to the information sought for. His explanation was that he took over as SPIO in the Directorate of Agriculture only on 19.08.2008 and thereafter, he searched for the relevant file pertaining to the information but, could not trace out due to misplacement in course of shifting of the office record room to A.D.Nagar. He undertook to provide the information as soon as the records would be made available. We find no reason to deny disclosure of the information in issue to the complainant. So, the OP 2 being the SPIO is under obligation to search out the relevant file and provide the information to the complainant as sought for.

9. The OP 1 in his written representation submitted that during the shifting of the office of the Rajnagar Agri Sub-Division from rented house to Government building, the concerned file was misplaced, for which the records pertaining to the information could not be traced out. However, in the meantime the file had been located and he is now in a position to provide the information sought for

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by the complainant vide his written request dated 19.03.2008. He further stated that the complainant did not deposit the requisite application fee till date. In the wake of denial of receipt of the application fee by the OP 1, the complainant could not produce any proof of deposit of the application fee to the OP 1, although there is a mention of making payment of Rs. 10/- as application fee in the written request in issue. In absence of any formal proof of depositing the application fee, the written request in issue cannot be held to be valid one and, therefore, the OP 1 was under no obligation to provide the information to the complainant as sought for. Albeit, the OP 1 raised no objection to make disclosure of the information sought for. We also do not find any bar in law to allow disclosure of the said information under the Act. The complainant is, therefore, entitled to have access to the information sought for subject to payment of application fee of Rs. 10/- by him to make the written request valid and thereafter, payment of further fees as may be assessed and communicated by the OP 1.

10. The first point is decided accordingly.

11. Point No.(ii): It is admitted fact that the OP 1 failed to take appropriate steps for disposal of the written request in issue within the statutory period of 30 days. He explained that the complainant did not pay the requisite application fee and that due to shifting of the office of the Rajnagar Agri Sub-Division from rented house to Government building, the concerned file was misplaced and for this reason, the time was taken. In regard to non-payment of the application fee by the complainant, the OP 1 being the SPIO was under obligation to notice the complainant to deposit the application fee in order to make the written request valid within a reasonable time, which he did not do. However, since the required information is now available for disclosure, the complainant should make payment of the application fee of Rs. 10/- and thereafter, the OP 1 after making assessment of further fees, ask the complainant to deposit such fees within a reasonable time and on payment of such further fees by the complainant, the OP 1 shall provide the information to the complainant within the period being specified by this Commission.

12. The explanation offered by the OP 2 for causing delay in responding to the written request of the complainant dated 16.08.2007 was that after his taking over as SPIO in the Directorate of Agriculture, Government of Tripura on 19.08.2008, he took steps for searching out the records pertaining to the information sought for by the complainant but, due to shifting of record room to AD Nagar, the relevant file pertaining to the information was misplaced and, therefore, could not be located. Even in that circumstance, the OP 2 should have informed the complainant the reason for causing the delay in responding to the written request within the statutory period, which he failed to do.



13. Both the OPs 1 & 2 frankly admitted that they were not well acquainted with the relevant provisions of the Act and the Tripura Right to Information Rules, 2008 (for short the Rules) and since it was the first case before them for disposal, some irregularities occurred, for which they pleaded excuse and gave undertaking to follow the relevant provisions of the Act and the Rules in future in dealing with any written request seeking information under the Act. Taking into consideration the explanation offered by both the OPs 1 & 2, we view the irregularities committed by them leniently and hold that the OPs had no malafide intention to deny disclosure of the information to the complainant. Thus, we do not consider it a fit case for imposition of penalty under section 20(1) of the Act.

14. In dealing with the cases of the public authority of the Directorate of Agriculture, this Commission experienced that most of the stakeholders under the said Directorate are not well acquainted with the Act and the Rules, for which they face much problems in dealing with the written requests seeking information by the requesters and the first appeals. The Director of Agriculture, Government of Tripura being the head of the Public Authority is, therefore, directed to make necessary arrangements for imparting training and education on the Act and the Rules to all the stakeholders under his control as early as possible.

Decision:

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

- (i) The OP 2 being the SPIO shall make a vigorous endeavour to trace out the records pertaining to the information sought for by the complainant vide his written request dated 16.08.2007 and provide the same to the latter 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 as prescribed by the Act.
- (ii) The complainant shall deposit application fee of Rs. 10/- by way of either in cash or treasury challan or Indian Postal Order to the OP 1 being the SPIO within a period of 15 days from the date of passing of this judgment and order. On receipt of such application fee, the OP 1 being the SPIO shall make an assessment of further fees to be deposited by the complainant within a period of 3 days and ask the complainant to deposit the same within a period of 7 days of such notice. Immediately after deposit of the further fees by the complainant, the OP 1 being the SPIO shall provide the certified copies of the documents to the complainant. On failure of the complainant to deposit the application fee and the further fees within the time specified, the OP 1 shall have no obligation to provide the information.

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16. Let copy of this judgment and order be sent to the complainant and the OPs. Also send a copy of this judgment and order to the Director of Agriculture, Government of Tripura, Agartala being the head of the Public Authority.

17. Pronounced.

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

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

Authenticated

(S.C. Saha) 17/12/08
Secretary

Tripura Information Commission

TRIPURA INFORMATION COMMISSION

P. N. Complex: Gorkhabasti: Agartala

Complaint No - 29 of 2008-09/1532-40

December 17, 2008

Copy to: -

- 1.Sri Gobinda Majumder, S/O Sri Barada Majumder, Vill.- Champaknagar, P.O.- Motai, Belonia, South Tripura (Complainant).
- 2.Sri Gautam Majumder, Superintendent of Agriculture, Rajnagar Agri Sub-Division, Belonia (near Belonia College) South Tripura (State Public Information Officer)- OP 1
- 3.Sri Sukhlal Baidya, Deputy Director of Agriculture, Directorate of Agriculture, Government of Tripura, Agartala (State Public Information Officer)- OP 2.
4. The Director of Agriculture, Government of Tripura, Agartala, (Head of the Public Authority).

(S.C. Saha) 17/12/08
Secretary
Tripura Information Commission