



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

Complaint No TIC- 27 of 2008-09.

Sri Bijay Kumar Agarwal
C/O Fortuna Agro Plantations Ltd.
8/1 Lalbazar Street, Bikaner Building
3rd Floor, Middle Block
Kolkata - 700 001
Mobile Phone No- 09433049363.....

Complainant

Vs.

Sri C.K.Das, Deputy Conservator of Forests (W/L), office of the PCCF, Government
of Tripura, Agartala (State Public Information Officer).

.....Opposite Party

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: None.

For the Opposite Party: Sri C.K.Das, Deputy Conservator of Forests (W/L),
office of the PCCF, Government of Tripura, Agartala
(State Public Information Officer).

Date of lodging the complaint: 23.09.2008


Date of hearing: 27.10.2008

Date of pronouncing the judgment and order: 18.11.2008

JUDGMENT AND ORDER

Facts:

I. This complaint arose out of a written application dated 19.09.2008 of Sri Bijay Kumar Agarwal (here in after referred to as the complainant) sent by courier post and was received by this Commission on 23.09.2008. The case of the



complainant is that he submitted a written request on 01.08.2008 accompanied by application fee of Rs. 10/- in cash by courier post to the State Public Information Officer (SPIO) in the office of the PCCF, Government of Tripura, Agartala seeking certain information under the RTI Act, 2005 (for short the Act). But, the complainant did neither receive any money receipt towards payment of the application fee nor any information from the concerned SPIO till the date of lodging this complaint. Hence, the complainant approached this Commission seeking direction for having access to the information sought for. Along with the written complaint, the complainant furnished photocopies of his written request dated 01.08.2008 and the proof of despatch of the written request in issue by courier post.

2. On perusal of the written complaint with enclosures, adequate materials are found to take cognizance of a complaint under section 18(1) of the Act and accordingly, it was registered.

3. In response to the summons, the Opposite Party (OP) Sri C.K. Das, Deputy Conservator of Forests, (W/L), office of the PCCF, Government of Tripura, Agartala and the SPIO appeared and submitted his written representation.

4. On the date of hearing, the complainant remained absent without any step despite notice. So, the case was heard ex parte. Heard oral submission made by the OP.

Point to be decided:

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

- (i) Is the complainant entitled to have access to the information sought for vide his written request dated 01.08.2008?
- (ii) If the OP being the SPIO was negligent in taking appropriate steps on the written request of the complainant in issue within the time frame as prescribed under the Act?

Reasons for decision:

6. Point No. (i): The complainant vide his written request dated 01.08.2008 sought for five items of information as described below and the views of this Commission as to the entitlement of the complainant's access to the information are given against each of the item of information:-

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a.



Sl No	Particulars of the information sought for by the complainant	Views of this Commission as to the entitlement of the complainant's access to the information
(1)	Certified copy of letter No.F.21(23)/RTI/For-08/6213 dated 23.07.2008 issued by Mr. G.R.Pal, Conservator of Forests, Agartala	In his written representation, the OP expressed his readiness to furnish the information. So, the complainant is entitled to have access to the information.
(2)	Certified copy of the internal notes exchanged within the office of the PCCF after receipt of the application under RTI Act, 2005 dated 29.04.2008 and the money receipt No- 084 dated 30.04.2008 from Mr. B.K.Agarwal, Agartala seeking information as per Annexure -B.	The OP being the SPIO raised no objection to furnish the information and, therefore, the complainant is entitled to have access to the information sought for.
(3)	Certified copy of the directions as received by Mr. G.K. Pal based on which Mr. B.K.Agarwal was informed that the information sought for in Annexure-B is not available in the office of the PCCF and the same is related to the DFO, WP-I, Agartala.	The OP being the SPIO raised no objection to furnish the information and, therefore, the complainant is entitled to have access to the information sought for.
(4)	Certified copy of the application under RTI Act, 2005 made by Mr. B.K.Agarwal seeking information as in point No. (1) to (3) above.	Construction of the particulars of information reveals that the complainant sought for certified copy of the written request dated 01.08.2008. Although, it is not intelligible as to why the complainant required certified copy of the same written request submitted by him to the concerned SPIO as copy of the same was supposed to be lying with the former but, since the complainant required to get the certified copy of the written request dated 01.08.2008, the same may be provided to the complainant by the concerned SPIO.
(5)	Inspection of all the relevant files and records.	Since, the complainant did not specify by mentioning which records and which particular files to be inspected, the SPIO is under no obligation to allow inspection of any vague file and the documents therein without ascertaining the entitlement.



7. In his written representation, the OP submitted that the complainant sought for records of a long span of 25 years relating to the day to day work of the different Forest Divisions and supply of such huge volume of records within only one month time is almost unimaginable. In course of hearing, it is transpired that the OP was misled by the complainant's annexing particulars of information at Annexure-B to his written request dated 01.08.2008, which was in fact, the particulars of the information sought for vide another written request dated 29.04.2008 of the complainant himself. So, under the present written request dated 01.08.2008, the complainant did not ask for the information mentioned in Annexure- B as appended to the written request dated 01.08.2008. After realizing his misconception, the OP being the SPIO expressed his readiness to provide all the information under items (1) to (4) as mentioned in the preceding paragraph. However, he expressed his bewilderment to allow inspection of files under item (5) of the written request in issue since it does not contain specification of the records and the files to be inspected by the complainant.

8. Having regard to the discussions made in the two preceding paragraphs, we are to hold that the complainant is entitled to have access to the information in respect of the items (1) , (2) , (3) & (4) as mentioned in paragraph - 6 above. However, he is not entitled to have inspection of any file and documents therein as against item (5) of his written request in issue for the reasons already stated. The first point is decided accordingly.

9. Point No. (ii): On perusal of the records and the allegations advanced by the complainant, it is revealed that the OP being the SPIO did not issue any receipt for making payment of application fee by the complainant along with the written request dated 01.08.2008. It is admitted by the OP that due to oversight, the receipt for payment of application fee had not been sent to the complainant although the money was duly received by the State Assistant Public Information Officer (SAPIO) vide receipt No. 110 dated 04.08.2008 and the copy of the same has also been furnished before this Commission. It is no doubt a negligence on the part of the SAPIO. The SPIO, therefore, should be more careful in this respect in future. Secondly, a long delay has been caused by the OP being the SPIO in responding to the written request in issue. The reason advanced by the OP being the SPIO was that since the information were related to all the 9 (nine) territorial Forest Divisions of the Forest Department, without obtaining required information from all of them, it was not possible to provide the required information to the complainant, which resulted the delay. It was also transpired during hearing on the complaint that the OP was under the misconception of providing all the information mentioned in Annexure-B to the written request dated 01.08.2008 of the complainant, under which the complainant sought for a list of certified copy of timber made by the Forest Department upon operating/ felling of forest trees under Working plan/Management Plan or any other programme in Tripura after the order of the Hon'ble Supreme Court in WP (C) No- 202 of 1995 read with Writ Petition (C) No- 171 of 1996 etc. It is also discussed in paragraph - 7 above that under the present written request dated 01.08.2008, the complainant was not required to



be provided with the information under Annexure -B appended to the said written request, So, the OP being the SPIO was under no obligation to provide the information as mentioned in Annexure -B. Thus, the explanation offered by the OP for causing delay arose out of misconception deserves a favourable consideration. It would not have occurred if he would apply his mind meticulously on the written request in issue. So, the OP being the SPIO is further directed to apply his mind scrupulously on the particulars of the information sought for by any requester during disposal of the written request under the Act in future.

Decision:

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

- (i) The OP being the SPIO shall provide the information to the complainant against items (1), (2), (3) & (4) of the latter's written request dated 01.08.2008 in the light of the discussions made in paragraphs - 6 & 7 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 provide the information within the statutory period.
- (ii) The OP being the SPIO should be more careful and scrupulous in dealing with any written request seeking information under the Act in future.

11. Let copy of this order be sent to the complainant and the OP. Also send a copy of this judgment and order to the PCCF, Government of Tripura being the head of the Public Authority.

12. Pronounced,

Sd/-
(D.K.Daschaudhuri)
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

Complaint No. TIC- 27 of 2008-09 / 1600 - 402

Dated. 18.11.2008

Copy to:-

1. Sri Bijay Kumar Agarwal, C/O Fortuna Agro Plantations Ltd., 8/1 Lalbazar Street, Bikaner Building, 3rd Floor, Middle Block, Kolkata - 700 001 (Complainant).
2. Sri C.K.Das, Deputy Conservator of Forests (W/L), office of the PCCF, Government of Tripura, Agartala (State Public Information Officer).
3. The Principal Chief Conservator of Forests, Government of Tripura, Agartala (Head of the Public Authority).

18/11/08
(S.C.Saha)
Secretary

Tripura Information Commission