



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

Appeal No.TIC-22 of 2008-09.

Mr. M.A.Khan, Retired PCCF  
66, Prakash Vihar, Dharampur  
P.O.- Araghar, Dehradun  
Uttarakhand- 248001.....

Appellant

Vs.

1.Sri C.M.Debbarna, IFS, Chief Conservator of Forests, office of the PCCF,  
Government of Tripura, Agartala (First Appellate Authority).  
2.Sri C.K.Das, Deputy Conservator of Forests (W/L), office of the PCCF,  
Government of Tripura, 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: None.

For the Respondent No.1: Sri C.M.Debbarna, IFS, Chief Conservator of Forests,  
office of the PCCF, Government of Tripura, Agartala  
(First Appellate Authority).

For the Respondent No.2: 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 second appeal : 02.09.2008

Date of hearing of second appeal: 01.10.2008

Date of pronouncing judgment and order: 18.10.2008

**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 appeal dated 27.08.2008 of Mr. M.A.Khan



(here in after referred to as the appellant) sent by speed post and received by this Commission on 02.09.2008.

2. Facts leading to this second appeal as averred by the appellant are that he submitted on 18.03.2007 a written request to the State Public Information Officer (SPIO) in the office of the PCCF, Government of Tripura, Agartala seeking three items of information depositing application fee of Rs. 10/- in cash. Having no response from the concerned SPIO within the statutory period, the appellant preferred a first appeal on 22.07.2008 to the First Appellate Authority (FAA) in the office of the PCCF, Government of Tripura, Agartala seeking appropriate redress to have access to the information sought for. The FAA also did not respond to the first appeal of the appellant till the date of lodging this second appeal. Being aggrieved with the non-response on the part of the FAA, the appellant preferred this second appeal before this Commission seeking appropriate direction for having access to the information sought for. Along with the memorandum of second appeal, the appellant furnished copies of the written request, the memorandum of first appeal and other papers.

3. 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.

4. In response to the summons, the Respondent 1 Sri C.M.Debbarma, Chief Conservator of Forests, office of the PCCF, Government of Tripura and the FAA and the Respondent 2 Sri C.K.Das, Deputy Conservator of Forests (W/L), office of the PCCF, Government of Tripura and the SPIO appeared and submitted their respective written representations before this Commission. The Respondent 2 also submitted an additional written representation.

5. The appellant, despite notice did not turn up. Heard oral submissions made by both the Respondents and this second appeal is decided in absence of the appellant.

**Issues for decision:**

6. In consideration of the facts and the circumstances of the case, the following issues require decision:-

- (i) Is the appellant entitled to have access to the information sought for vide his written request dated 18.03.2008?
- (ii) Did the Respondents 1 & 2 commit violation of the provisions of the Act by not responding to the memorandum of first appeal and the written request of the appellant in issue respectively to warrant imposition of any penalty under section 20(1) of the Act?



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**Reasons for decision:**

7. **Issue No.(i):** We have carefully gone through the written request dated 18.03.2008 of the appellant with enclosures, the written representations and also the oral submissions made by the Respondents. The information sought for by the appellant are summarized below:-

- (i) Whether permission of the Supreme Court was obtained as required under Para-38 of its order dated 15.01.1998 passed in the Writ Petition (c) No.202 of 1995 for compounding the case of illegal felling of 126 trees by the permit holder Sri Banibrata Deb as recommended by the Conservator of Forests, Northern Circle vide letter No.F.1-29(10)/C&FC/KLS/For-05/63-65 dated 27.05.2005 and for release of seized timber to the same offender?
- (ii) If not, under what special authority such timber was redeemed to the same offender without making an attempt to supply the timber to some Government Departments or to put it to tender?
- (iii) Whether the above disposal was brought to the notice of the State Government indicating the Supreme Court's directions?

8. The Respondent 2 Sri C.K.Das, Deputy Conservator of Forests (W/L), office of the PCCF, Government of Tripura being the SPIO, in his additional written representation stated that he took over the charge of the SPIO on 02.06.2008 when he found that the written request of the appellant in issue was under process and accordingly, he sent an intimation to the appellant vide letter No.F.2-1(21)/RTI/For-08/584 dated 11.07.2008. Predecessor of the Respondent 2 received the written request in issue without application fee although it was mentioned in the written request that the money was attached with it. So, his predecessor asked the appellant to deposit the application fee, in compliance of which, the appellant sent the application fee of Rs. 10/- which was received by the Respondent 2 being the then State Assistant Public Information Officer (SAPIO) on 21.04.2008. The Respondent 2 in his additional written representation categorically stated that he was not against the disclosure of the information in issue to the appellant but, some time was required for taking assistance of the head of the Public Authority to collect the information from the custody of the concerned authority. He also submitted that the records pertaining to the information in issue were lying with the Divisional Forest Officer (DFO), Kailashahar, for which the matter was referred to the latter vide letter No.F.2(21)/RTI/For-08/744-45 dated 30.08.2008.

9. The Respondent 1 being the FAA in his written representation submitted that the memorandum of first appeal dated 22.07.2008 of the appellant was not received at all by his office. Therefore, the Respondent 1 had no scope to process and decide the first appeal claimed to have been sent by the appellant, the Respondent 1 verbally added.



10. After careful appreciation of the records and the submissions made by the Respondents 1 & 2, we are constrained to observe that the Respondent 2 being the SPIO and his predecessor failed to exercise due diligence in disposing of the written request in issue of the appellant seeking information within the statutory period. Considering the nature of the information, we believe that all the materials constituting the information were supposed to be lying in the office of the PCCF, Government of Tripura. So, the concerned SPIO should have sought necessary assistance of the head of the Public Authority of the Forest Department to make the records pertaining to the information sought for by the appellant available with him for taking appropriate decision about their disclosure. Since, the Respondent 2 undertook in his additional written representation to make disclosure of the information sought for by the appellant, we find no necessity to discuss anymore about disclosure of the information sought for by the appellant except that there exists no bar in law for disclosure of such information to the appellant. We, therefore, hold that the Respondent 2 being the SPIO is under obligation to make disclosure of the information taking necessary assistance from the PCCF, Government of Tripura being the head of the Public Authority of the Forest Department. The head of the Public Authority i.e. the PCCF, Government of Tripura is also under obligation to make the records concerning the information in issue sought for by the appellant available with the SPIO for discharging statutory functions by the latter as assigned to him by the Act. Thus, we hold that the appellant is entitled to have access to the information sought for.

11. **Issue No.(ii):** The Respondent 1 being the FAA in his written representation claimed to have not received the memorandum of first appeal dated 22.07.2008 of the appellant. As a proof of despatching the memorandum of first appeal by the appellant, nothing has been produced before this Commission to hold a different view but to accept the submission of the Respondent 1. Thus, the Respondent 1 being the FAA was under no obligation to respond to the memorandum of first appeal as claimed by the appellant. Records reveal that the then SPIO of the office of the PCCF, Government of Tripura received the application fee through the concerned SAPIO on 21.04.2008, which may be taken as receipt of a valid written request of the appellant. So, the then SPIO was under obligation to dispose of the written request seeking information in issue within a period of 30 days i.e. by 21.05.2008. But, the then SPIO was sitting idle with the written application. However, the Respondent 2 being the present SPIO after assuming the office of the SPIO on 02.06.2008, took some steps for disposal of the written request in issue. But, he also failed to dispose of the written request within the statutory period apparently for the reason that the records pertaining to the information were not available with him. He referred the matter to the DFO, Kailashahar on 30.08.2008 much latter than the statutory period. Thus, the Respondent 2 being the present SPIO was also found to have not followed strictly the timeframe for disposal of the written request as prescribed by the Act. However, since, he expressed his readiness to provide the information after taking assistance from the concerned authority, we view his negligence leniently with the caution that he should not recur such dilatory tactics in future in dealing with the written request seeking information by a citizen.



Decision:

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

(i) The Respondent 2 being the SPIO shall provide the information sought for by the appellant vide his written request dated 18.03.2008 within a period of 15 days from the date of passing of this judgment and order if necessary, taking assistance from the head of the Public Authority or any other officer under the same Public Authority free of cost as the SPIO failed to furnish the information to the appellant within the statutory period.

(ii) The PCCF, Government of Tripura being the head of the Public Authority of the Forest Department shall render necessary assistance to make the records pertaining to the information sought for by the appellant available at the disposal of the Respondent 2 being the SPIO so that the latter can comply with the above direction strictly within the time specified by this Commission.

13. Let copy of this judgment and order be sent to the appellant, the Respondents and the PCCF, Government of Tripura being the head of the Public Authority.

14. 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 TIC- 22 of 2008-09 /1252-55

Dated, 18.10.2008

Copy to:-

1. Mr. M.A.Khan, Retired PCCF, 66, Prakash Vihar, Dharampur, P.O.- Araghar, Dehradun, Uttarakhand- 248001 ( Appellant ).
- 2.Sri C.M.Debbarma, IFS, Chief Conservator of Forests, office of the PCCF, Government of Tripura, Agartala (First Appellate Authority).
- 3.Sri C.K.Das, Deputy Conservator of Forests (W/L), office of the PCCF, Government of Tripura, Agartala (State Public Information Officer).
4. The Principal Chief Conservator of Forests, Government of Tripura, Agartala (Head of the Public Authority).

  
(P.Chakraborty)  
Secretary

Tripura Information Commission