



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

Appeal No TIC - 31 of 2008-09.

Sri Sudhir Debnath
C/O Sri Bhajan Ch. Debnath
Dhaleswar Road No-11 (near bundh)
P.O.- Dhaleswar, West Tripura

.....Appellant

Vs.

1.Sri C.M.Debbarma, 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: Sri Bhajan Ch. Debnath for and on behalf of the
appellant Sri Sudhir Debnath duly authorized.

For the Respondent No.1: Sri Kishalay Basu, Head Clerk, office of the PCCF,
Government of Tripura for and on behalf of the
Respondent 1 Sri C.M.Debbarma, 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 : 15.11.2008

Dates of hearing of second appeal: 12.12.2008

Date of pronouncing judgment and order: 29.12.2008

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**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 15.11.2008 of Sri Sudhir Debnath (here in after referred to as the appellant) received by this Commission on the same date. The facts leading to this second appeal are that the appellant on 30.05.2008 submitted a written request to the State Public Information Officer (SPIO) in the office of the PCCF, Government of Tripura, Agartala seeking information under the Act. Having no response from the SPIO, the appellant preferred a first appeal on 04.07.2008 before the First Appellate Authority (FAA) in the office of the PCCF, Government of Tripura. In the meantime, in response to the above written request, Sri C.K.Das, Deputy Conservator of Forests (DCF) (W/L), office of the PCCF, Government of Tripura being the SPIO provided the information to the appellant in two instalments on 06.08.2008 and 04.09.2008. However, Sri C.M.Debbarma, Chief Conservator of Forests (CCF), office of the PCCF, Government of Tripura being the FAA after hearing the appellant and the concerned SPIO, decided the first appeal by an order dated 30.09.2008 upholding the decisions of the SPIO taken on 06.08.2008 and 04.09.2008. Being dissatisfied with the decision of the FAA, the appellant approached this Commission with this second appeal seeking direction for having access to adequate information as sought for under items 2 to 7 as mentioned in his written request dated 30.05.2008. 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 second appeal under section 19(3) of the Act.

3. In response to the summons, Respondent 2 Sri C.K.Das, DCF, (W/L), office of the PCCF, Government of Tripura being the SPIO appeared and submitted his written representation and an additional written representation. Respondent 1 Sri C.M.Debbarma, CCF, office of the PCCF, Government of Tripura being the FAA was represented by Sri Kishalay Basu, Head Clerk, office of the PCCF, Government of Tripura duly authorized. But, no written representation was submitted by the Respondent 1.

4. Heard oral submissions made by the Respondent 2 and the representatives of the appellant and the Respondent 1.

Issues for decision:

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

- (i) Are the decisions dated 06.08.2008 and 04.09.2008 of the Respondent 2 being the SPIO taken on the written request dated 30.05.2008 of the appellant and the decision dated 30.09.2008 of the Respondent 1

being the FAA given in the first appeal dated 04.07.2008 of the appellant in regard to disclosure of the information under items 2 to 7 as mentioned in the written request in issue maintainable?

- (ii) To what further information the appellant is entitled?

Reasons for decision:

6. Both the issues are taken together for discussion for the sake of convenience. Under items 2 to 7 as mentioned in his written request dated 30.05.2008, the appellant made some queries and sought for copies of some documents. It is argued by the appellant that the information provided by the Respondent 2 being the SPIO were contradictory and that the Respondent 1 being the FAA did not make any comparison between the information demanded by the appellant and the information provided by the Respondent 2 and thus, arrived at an arbitrary decision holding that the information provided by the Respondent 2 were adequate.

7. In his written representation and the additional written representation, the Respondent 2 being the SPIO admitted that he committed mistake of fact regarding disclosure of some information under items 2 & 3 of the written request of the appellant in his letter dated 06.08.2008 and 04.09.2008 addressed to the appellant. He undertook to provide maximum information as would be available after proper checking of records.

8. We have perused the memorandum of appeal with enclosures, copies of the information provided by the Respondent 2 being the SPIO, the written representation and the additional written representation of the Respondent 2. We also considered the oral submissions placed by the Respondent 2 and representatives of the appellant and the Respondent 1.

9. Under item 2, the appellant made the queries that if it was true as appeared in the local newspaper 'Dainik Sambad' that Sri Chandrasekhar Chottopadhyay, Secretary after holding enquiry found Sri Narayan Choudhury, SFR who was in - charge of cashier of Working Plan (WP) Division No-II guilty of committing misappropriation of Rs. 62,000/- and submitted a report vide No-F.1(1)/SECY/DP/968 dated 24.06.1999. The queries namely, if this was correct, a photocopy of the enquiry report was sought to be provided and if the defalcated money was realized from Sri Narayan Choudhury and in that event the mode of realization were sought to be replied. Under item 3, it was a query to be answered if the defalcated money was not recovered, the reasons therefor. The Respondent 2 being the SPIO vide his letter No.F.21(34)/RTI/For-08/13295 dated 06.08.2008 intimated the appellant that a departmental proceedings was drawn up against Sri Narayan Choudhury, SFR (now retired TFS) for negligence in his duties while in government service under DFO, WP Division No-II in connection with the theft case of government money of Rs. 62,405.25 and the case had been ended with imposing penalty of 'censor' by the competent authority and the said money had been written off as per government decision. The information provided by the SPIO covered the queries



made by the appellant namely, awarding punishment to Sri Narayan Choudhury, SFR, the fate of the alleged misappropriated money and the reason for not realizing the money from Sri Narayan Choudhury, SFR and thus, covered some parts of the information demanded under item 2 and full information demanded under item 3 of the written request in issue but, the first part of the information under item 2 had not been answered by the Respondent 2 being the SPIO i.e. if it was true that Sri Chandrasekhar Chottapadhyay, Secretary after holding an enquiry found Sri Narayan Choudhury, SFR who was in-charge of cashier of WP Division No-II guilty of committing misappropriation of Rs. 62,000/- and submitted a report on 24.06.1999 and if it was true, a photocopy of the enquiry report was sought to be provided. We find no reason for not answering such queries by the Respondent 2 being the SPIO. So, he is under obligation to provide the said information to the appellant.

10. Under item 4, the queries made by the appellant were that whether or not Sri Narayan Choudhury was given promotion and if so, a copy of the promotion order was sought for. It is transpired from the record that Sri Narayan Choudhury, retired as a member of the TFS, which tends to show that he was promoted to the TFS cadre from the post of SFR. So, there is no reason for not providing the information required by the appellant under this item. The Respondent 2 is, therefore, under obligation to provide the said information.

11. Under item 5, the query made by the appellant was that if the punishment of censor awarded to an employee is an impediment to a promotion in service. It is a matter of interpretation of law, which is not covered by the term 'information' and, therefore, the Respondent 2 being the SPIO was under no obligation to make any such interpretation and provide the same to the appellant being the requester. The Respondent 2 being the SPIO although in his letter of intimation dated 06.08.2008 mentioned that the information provided by him under the said letter covered the items 2 to 4 but, we do not find any such information in the above letter of intimation.

12. Under item 6, the appellant wanted to know how many employees punished with censor had been given promotion till date. Under 7th item, he wanted to know how many cases of promotion of employees had been held up for punishing with censor. These two information were refused by the Respondent 2 for the reason that the specific period and category of post and employees were not mentioned in the particulars of the information. We are of the view that although the information are not exempted under any of the clauses of section 8(1) of the Act, but in absence of specific mention in the particulars of information covering the period and category of the employees, it may be difficult for a public authority to procure the information since its inception. It is, therefore, most unwise for any requester to demand information without giving specific details. This apart, too old information is also denied to the Parliament and the State Legislature according to their respective Rules of Procedure and Conduct of Business. So, the Respondent 2 being the SPIO was under no obligation to provide the information sought for under items 6 & 7.

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13. The Respondent 1 being the FAA received the first appeal dated 04.07.2008 on 05.07.2008 as it appeared from the certificate of the Postal Authority produced by the appellant and the FAA decided the first appeal by an order dated 30.09.2008 i.e. after about 87 days of filing the first appeal. He was required to dispose of the first appeal within 30 days and in exceptional cases within 45 days showing reasons therefor. But, in the instant case, the Respondent 1 assigned no reason for such long delay in disposal of the first appeal in his impugned order dated 30.09.2008, which contravened the provisions of section 19(6) of the Act. Again, perusal of the order dated 30.09.2008 reveals that he satisfied himself about adequacy of the information provided by the Respondent 2 relying upon the version of the latter without considering the grounds advanced by the appellant. Since, the decisions of the Respondent 2 are found to have suffered from several infirmities as discussed in the preceding paragraphs, full reliance on such decisions as put by the Respondent 1 is not tenable. So, his impugned order dated 30.09.2008 is liable to be set aside. The Respondent 1 is directed to be more careful in future in timely disposal of the first appeal strictly adhering to the principle of natural justice and the relevant provisions of the Act and the TRTI Rules, 2008.

Decision:

14. In fine, the appeal is partially allowed on contest with the orders that the Respondent 2 being the SPIO shall provide the first part of the information against item 2 and full information under item 4 as mentioned in the written request dated 30.05.2008 of the appellant in the light of the discussions made in paragraphs – 9 & 10 above 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.

15. Let copy of this judgment and order be sent to the appellant and the Respondents. Also send a copy of this judgment and order to the PCCF, Government of Tripura being the head of the public Authority.

16. Pronounced.

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

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

Authenticated

S.C.Saha
(S.C.Saha)
Secretary

Tripura Information Commission



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

Appeal No TIC - 31 of 2008-09 / 1584-83

Dated, 29.12.2008

Copy to:-

1. Sri Sudhir Debnath, C/O Sri Bhajan Ch. Debnath, Dhaleswar Road No-11 (near bundh), P.O.- Dhaleswar, West Tripura (Appellant).
2. Sri C.M. Debbarma, 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).


(S.C.Saha)
Secretary

Tripura Information Commission