

**ODISHA INFORMATION COMMISSION
BHUBANESWAR**

**Present: Shri Sunil Kumar Misra
State Chief Information Commissioner**

Dated: 17th July, 2018

Second Appeal No.1374/2015

Sachindra Nath Behera,
Vill-Sankhaladi,
P.O.-Badkhaladi,
Via-Kaptipada,
District-Mayurbhanj Appellant

- Vrs -

(1)Public Information Officer,
Office of the Superintendent of Police, Mayurbhanj,
Baripada,
District-Mayurbhanj

(2)First Appellate Authority
Office of the Superintendent of Police, Mayurbhanj,
Baripada,
District-Mayurbhanj Respondents

Decision

1. Appellant, Sachindra Nath Behera, is not present. However, he has sent a written submission dated 16.07.2018 which forms part of records. Dillip Kumar Patel, Deputy Superintendent of Police, DIB, Mayurbhanj, Baripada, Office of the Superintendent of Police, Mayurbhanj is present.

2. Vide an application in Form-A dated 11.04.2015 filed with the PIO, Office of the Superintendent of Police, Mayurbhanj, Baripada, the appellant had requested the PIO

to provide him certain information relating to SPOs and their retrenchment in two specific cases. The PIO vide letter dated 23.04.2015 informed the appellant that the information sought by him did not come within the purview of the RTI Act and, therefore, could not be supplied. Aggrieved, the appellant filed first appeal vide an appeal memo in Form-D dated 02.05.2015. Subsequent to the filing of first appeal, the APIO-cum-Inspector of Police, Baripada informed the appellant vide a letter dated 26.05.2015 that the matter was sub-judice before the Hon'ble High Court of Orissa, Cuttack.

3. The appellant then filed the subject second appeal vide an appeal memo in Form-E dated 06.06.2015.

4. This case was earlier heard on 23.05.2017 and 09.10.2017. In connection with the above hearings, the PIO as well as First Appellate Authority-cum-Superintendent of Police, Mayurbhanj filed written submissions stating that information relating to appointment and removal of SPOs would not come under the purview of the RTI Act as the guidelines governing the same are 'top secret'.

4.1 The submissions thus made were considered and found to be insufficient as the respondents had not cited any specific provision / clause of Section 8(1) of the RTI Act, 2005 under which exemption was being claimed. Further, by virtue of Section 22, the RTI Act over-rides the official Secrets Act as well as any other law for the time being in force. Hence, the respondents were directed to justify the stand taken by them. The Commission also sought to know from the respondents as to why information regarding the number of SPOs appointed and regarding the year in which they were retrenched could not be provided.

5. In pursuance of the directions thus given, the First Appellate Authority-cum-Superintendent of Police, Mayurbhanj made a written submission highlighting the

