

ODISHA INFORMATION COMMISSION  
BHUBANESWAR

Present: Shri Pramod Kumar Mohanty  
State Information Commissioner

Dated: 4<sup>th</sup> January, 2013

**Second Appeal No. 294/2011**

and

**Second Appeal No.517/2011**

Ramakanta Samantaray, Advocate,  
Ranpur Bar Association,  
At/PO- Ranpur,  
Nayagarh District. ....Appellant

-Vrs-

Public Information Officer,  
Office of the Sub-Registrar,  
Ranpur,  
Nayagarh District. ....Respondent

**Decision**

1. The appellant Ramakanta Samantaray had filed an RTI application in Form A on 16.5.2010 before the PIO, Office of the Sub-Registrar, Ranpur seeking information regarding names and interest of the parties in adoption of deed No. 7 of 1992, Volume 1. The PIO had rejected the request of the appellant on 7.6.2011 after obtaining written objection from the parties to the said deed under Section 11 of the RTI Act. Against the decision of PIO, the appellant preferred First Appeal on dt. 27.6.2011 on the grounds of illegal and improper rejection of his RTI application. The First Appellate Authority in his order dated 25.7.2011 upheld the decision of the PIO Against the said order of the First Appellate Authority, the appellant has filed this appeal on the ground that the orders of the First Appellate Authority as well as the PIO were wrong and not sustainable in law. Hence, he has prayed to set aside the said order and to provide him the required information.
2. The appellant again filed another application before the same PIO on 5.8.2011 seeking similar nature of information related to the said deed in a different manner by putting the following questions:
  - (a) *Whether Sadasiba Rout and his wife Rama Dei of Lakhanpur adopted Sri Niranjan Routray of Bankapur through adoption Deed No. 7/1992?*

- (b) Whether the natural father of Sri Basanta Kumar Mohanty and natural mother of Sri Niranjan Rout had given their consent in the aforesaid deed?*
- (c) Whether Akuli Gumansingh wife of Bhikari Gumansingh of village Bagal had given her consent in the said deed, who is the second daughter of Sadasiba Rout?*

3. The PIO had also rejected the subsequent RTI application on the same ground taking into consideration the view taken on his earlier RTI application. The appellant also preferred First Appeal against the decision of the PIO, who also upheld the decision of the PIO and rejected the plea of the appellant. Against the said decision of the First Appellate Authority the present appellant had also filed another Second Appeal before this Commission which is registered as SA No. 517/2011. On 22.11.2011 the appellant has filed a petition praying to hear both the appeal cases analogously for the sake of convenience, which was allowed. Hence, both the appeal cases were heard analogously and the following orders common to both the cases are passed.
4. The appellant had submitted that after a document has been registered before the Registrar/Sub-Registrar under the Indian Registration Act, the Registrar/Sub-Registrar has to insert the name, date of execution of the deed etc. in a Register kept for the purpose and the same Register is a public document within the meaning of Indian Evidence Act and no "privileged communication" is applied as enumerated under the said Act (Section 122 to Section 126) and one can obtain a copy of the said document by paying prescribed fees. He also submitted that both the PIO and First Appellate Authority have failed to understand the provisions of Section 11 of the RTI Act and its application in a proper perspective.
5. Section 74 of the Indian Evidence Act provides for the following documents as public documents:
- (1) Documents forming the acts, records of acts:*
  - (2) Public records kept in a state of private documents.*

Section 51 of the Indian Registration Act provides for the Registers (Books) which shall be maintained in Registration Offices. Out of these, Book-4 relates to

Miscellaneous Register in which all documents under Clause (d) & (f) of Section 18, which do not relate to immovable property, shall be entered.

6. The PIO in his submission referred to Section 57(3) of the Registration Act in this context which reads as follows:-

*“57(3) Subject to the same provision, copies of entries in Book No. 4, and in the Index relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer or to his agent or representative.”*

This Section explicitly indicates that copies of entries in Book – 4 and in the index relating thereto shall be given to any person executing or claiming under the document to which such entries respectably referred to etc. Here in this case the appellant is neither a party to the said document nor is an agent or representative of the parties thereto. Therefore, as per Section 57 (3) of the Indian Registration Act, the appellant is necessarily a third party. Section 8 (1)(j) read with Section 11 of the RTI Act bars the PIO to release any such information to a third party or to cause unwarranted invasion of the privacy of an individual. The PIO is only empowered to release Third Party information in certain exceptional circumstances under the RTI Act, i.e. if the seekers of such Third Party information are able to establish sufficiently that such information is required for larger public interest.

7. On going through the factual aspect of the case, it is found that on receiving the RTI application, the PIO had intimated the parties of the said document inviting their objections, if any. Both the parties had objected in writing for the disclosure of the said information. Basing on the written objection of the parties, the PIO had rejected the application of the appellant. The appellant had also failed to establish that larger public interest justified the disclosure of such information either before the PIO or before the First Appellate Authority during appeal. Even he has not justified the same before this Commission. He only argued that since the document is a “public document”, the PIO is bound to release such information. But Section 2(i) of the RTI Act, 2005 which defines ‘records’ which

can be accessed under the Act, includes documents exclusively held by a public authority and does not differentiate between private and public documents. Further disclosure of such documents held by a public authority is subject to provisions under Sections 8, 9 and 11 of the Act. As discussed above, the request for information has been rejected after following due procedure prescribed U/S 11 of the Act. Therefore, it is the considered view of the Commission that the PIO and First Appellate Authority had rightly rejected both the applications and appeals of the present appellant. Consequently, both the appeals filed by the appellant are disposed of being devoid of any merit.

**Pronounced in open Proceedings**

Given under the hand and seal of the State Commission, this the 4<sup>th</sup> day of January, 2013.

Sd/-

**State Information Commissioner**