

**ODISHA INFORMATION COMMISSION
BHUBANESWAR**

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

**Date 13th April, 2018,
Second Appeal No. 1649 / 2014**

Sudarsan Sahani,
At/PO – Kumpapada,
Via - J. N. Prasad,
Dist.- Ganjam.....Appellant

-Vrs-

1. Public Information Officer,
Office of the Executive Engineer,
M.I. Division No.-II, Berhampur,
Dist.- Ganjam.
2. First Appellate Authority,
Office of the Executive Engineer,
M.I. Division No.-II, Berhampur,
Dist.- Ganjam.....Respondents.

Decision

1. Appellant, Sudarsan Sahani, is not present. Rabindranath Bisoyi, PIO-cum-Graduate Engineer, M. I. Division No.II, Ganjam, Berhampur and Manas Ranjan Dash, Executive Engineer of the said Division are present. Ajoy Kumar Nayak, Advocate, is also present on their behalf.

2. Vide an application in Form-A dated 13.12.2013 submitted before the PIO, Office of the Executive Engineer, Minor Irrigation Division No.II, Ganjam, Berhampur, the appellant had requested the PIO to provide him certain information relating work construction of chute type fall of Bhitiribadiguba M.I. Project. The required information had been listed out in the application in form-A vide 14 specified points.

3. The appellant followed up his application in Form-A by filing first appeal vide an appeal memo in Form-D dated 03.02.2014 and, thereafter, the subject second appeal vide an appeal memo in Form-E dated 04.07.2014.

4. This case was heard several times earlier. At the time of the very first hearing on 22.07.2016, the Commission had directed the PIO to provide the required information to the appellant within 15 days. However, the said direction was not carried out. Hence, vide subsequent proceedings dated 19.10.2016 and 14.12.2016, the Commission reiterated the above direction. The concerned PIO was also directed to show cause as to why action should not be taken against him under Section 20 of the RTI Act, 2005. Further, as there was non-compliance even on the part of the First Appellate Authority, the Commission directed the First Appellate Authority to show cause as to why he should not be proceeded against for such non-compliance. As the non-compliances on the part of both the authorities persisted, the Commission vide proceedings dated 27.12.2016 brought the matter to the notice of the Superintending Engineer, the Chief Engineer as well as the Principal Secretary to Government, Water Resources Department, Bhubaneswar for taking necessary action against the erring officers for violating the directions issued by the Commission. The PIO and the First Appellate Authority were also once again directed to show cause why they should not be proceeded against under Sections 20(1)/ 20(2) of the RTI Act, 2005.

4.1. In compliance of the directions thus issued, the PIO and the First Appellate Authority finally attended the hearing on 19.01.2017 and submitted that information could not be provided to the appellant earlier as the records had been handed over to the Government Counsel for adducing evidence in Case No.26/2002 filed by the Government in the Hon'ble Court of the Civil Judge, Berhampur, Ganjam. It was also stated that the Government Counsel did not agree to return the records till the closure of the legal proceedings. After receiving notice from the Commission in August, 2016, a letter was issued to the appellant on 01.09.2016 informing that steps would be taken to provide the available

