

**ORISSA INFORMATION COMMISSION
FORM OF DECISION SHEET**

Hon'ble State Chief Information Commissioner, Orissa

Complaint Case No. 28/2006

Sri Harish Dutta,
At/P.O.- Kostha
Mayurbhanj District.....Complainant


-Vrs-

- 1 Sri Natabar Rout, OAS (1) Jr.
BDO, Suliapada,
Mayurbhanj District
- 2 Sri Bhagamat Soren
Assistant Block Development Officer
cum-Public Information Officer,
At: Suliapada,
Mayurbhanj District.....Opposite Parties

SL No.	Date of decision	Decision with the signature of the State Commission	Action taken with date
3	18/07/06	<p>1 Complainant Sri Harish Dutta has exercised his statutory option to be absent. The 1st Appellate Authority, Sri Natabar Rout, BDO, Suliapada is present but the PIO Sri Bhagamat Soren is absent. Heard Sri Natabar Rout in detail.</p> <p>2 He submits that the PIO has made false allegations against him to have created hindrance in providing information to the Complainant. Neither Sri Dutta nor the PIO ever met him regarding the alleged non-supply of information. He further contends to have remained on intermittent leave during the relevant period due to his illness. The fact that on the date Sri Dutta submitted the application for information, the BDO was present in the office has been admitted by Sri N. Rout.</p> <p>3 The issue which is presently enquired into is that as to why the PIO Sri Soren who has not supplied the information to the Complainant within the stipulated time will not be penalized for his lapses.</p>	

While providing a reasonable opportunity of hearing the PIO Sri Soren, he advanced a plea that the 1st Appellate Authority Sri Natabar Rout did not co-operate with the PIO. But it is submitted by Sri Rout that at no point of time either the Complainant or the PIO have approached him. To solve the above factual controversy a fact finding enquiry is very much necessary to pointedly attribute the fault to an individual or individuals as per the statute.

- 4 Thus after due consideration of the above question the State Commission hereby appoint the Sub-Collector, Baripada, Mayurbhanj District as the Authorized officer under Rule 7 (1) (c) of the Orissa Information Commission (Appeal Procedure) Rules 2006 and hereby direct to urgently conduct an enquiry as to who has or who have defaulted in providing information to Sri Harish Dutta, the Complainant (Address: At/P.O: Kostha, Suliapada Block, Mayurbhanj District) by giving opportunity to the Complainant Sri Harish Dutta, PIO Sri Bhagamat Soren and the 1st Appellate Authority Sri N. Rout (ex - BDO) to adduce evidence if they wish. The Sub-Collector is to submit a speaking and reasoned enquiry report to the State Commission on or before 17/08/06.
- 5 Inform all concerned and put up on 17/08/06 for further hearing in their presence. Presence of the Sub-Collector, Baripada would not be required after submission of the enquiry report.


Hon'ble SCIC
18.7.06


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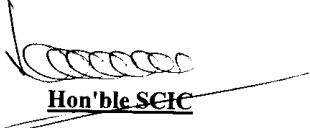
SL No.	Date of decision	Decision with the signature of the State Commission	Action taken with date
4	17/08/06	<p>1 The Complainant is absent. He has the statutory option to either remain present or be absent during hearing under Rule 9(2) of the Orissa Information Commission (Appeal Procedure) Rules, 2006. The PIO(OP) Sri Bhagamat Soren is present. Notice sent by the State Commission to Sri Natabar Rout, Block Development Officer, Suliapada Block (OP) has returned with a postal endorsement that the addressee is not available at the address. Sri Bhagaban Soren has filed his written showcause. Heard him in detail.</p> <p>2 It shall not be out of place to mention that by order dated 18/07/06 the State Commission had appointed the Sub-Collector, Baripada, Mayurbhanj District as the Authorised Officer under the Orissa Information Commission (Appeal Procedure) Rules, 2006 to conduct a fact finding enquiry and identify the officer who has violated the mandatory provisions of Right To Information Act, 2005 (Act for short). The report forwarded in letter no 9400 dated 10/08/06 of the Sub-Collector, Baripada has been received in the State Commission on 16/08/06 and taken on record. Perused the said report, wherein the Sub-Collector has recorded the findings and suggestions which are reproduced below:</p>	


Findings: The application for information was not processed in the prescribed manner. No case record was opened. Therefore, I find that the PIO has not performed his duties as prescribed in the Act. However, it is also a fact that during the same time some unfortunate incidents had happened in the Block Office and there was serious dislocation in the working of the Block office due to which the applicant could not get relief from the 1st Appellate Authority.

Suggestions: However, taking into consideration the disturbing situation that was prevailing in the Block and the fact that this is the first time an offence of this kind is committed by the PIO and the 1st Appellate Authority in this case, and because the applicant has stated that he do not have any allegation in the matter now and also since they have begged pardon for the lapses committed, they may be excused this time. Therefore as a token punishment, both the concerned officers i.e. the PIO and the 1st Appellate Authority in the present case may be issued strict warning. This would also act as a deterrent against future lapses in similar cases not only in Suliapada block but also in the entire district of Mayurbhanj.

3 Let us now take into consideration the written showcause filed by Sri Soren today. He has mentioned therein to have disposed of all the RTI application on time. He also submits in person to act very reasonably and diligently in attending to the applications under the Act. He assures the State Commission that no lapses of this nature shall be noticed in future.

4 In consideration of the fact finding report of the Sub-Collector, Baripada, the State Commission feel it appropriate to take a holistic view of the factual matrix. The cumulative effect of the facts of disturbance due to some unfortunate law and order incidents occurring in the Block would be that normal work of the Block has been adversely affected for which the dereliction of the above officials occurred. The above reason may be sufficient to warn Sri Soren by issuing a letter to him to guard against recurrence. But Sri Rout, BDO who is on leave and reported by the PIO to be staying in Baripada be summoned to appear in person before the State Commission on 26/09/06 and showcause as to why action as deemed proper under the Act shall not be initiated against him for the prima facie dereliction committed by him. Issue notice to Sri Natabar Rout, BDO, Suliapada at present "Near Kali Mandir, Baripada, Mayurbhanj District" to appear on 26/09/06 at 11 AM when the matter shall be further heard.


Hon'ble SCIC
17-8-06


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