

BEFORE THE ORISSA INFORMATION COMMISSION
BHUBANESWAR

Present.: Hon'ble Shri D.N. Padhi, S.C.I.C
and
Prof. Radhamohan, S.I.C

Dated. 23rd May 2006

Complaint Case No.46/2006



Mr. Umesh Prasad
INDO Chemicals, Samantrapur
Bhubaneswar-751002.....Complaint

-Vrs-

1. Khageswar Sahoo
Deputy Secretary-cum-
Public Information Officer,
Board of Revenue Orissa, Cuttack
2. Revenue Officer-cum-
Public Information Officer,
Sub-Collector's Office,
Khurda
3. Sub-Collector,
Khurda
4. Superintendent of Police –cum
Public Information Officer,
Dist- Head quarters, Khurda
BhubaneswarOpposite Parties

Decision

1. This dispute under the provisions of the Right to Information Act, 2005 (herein after described as the 'Act' in short) has been filed by Mr. Umesh Prasad in the form of a Second Appeal u/s 19(3) of the Act.
2. During scrutiny of the said Appeal the following averment of the appellant was taken into account:

“The First Appellate Authority was not approached for reason of his personally ordering movement of information to accommodate my request for information”

Thus it is clear that the appellant has not approached the First Appellate Authority. Therefore the dispute has not been registered as a Second Appeal. By order dt. 06.5.2006 the dispute has been registered as a Complaint.

3. The Complainant's grievances are against three independent Public Authorities namely, Board of Revenue, Sub-Collector, Khurda & Police Administration, Khurda District. All the said three Public Authorities were summoned by the State Commission to appear to-day.

4. In response to the above processes issued by the State Commission, Sri Khageswar Sahu, Public Information Officer., Board of Revenue, Orissa, Cuttack, Sri Ashok Kumar Kanungo, Revenue Officer-cum-Public Information Officer., Khurda, Sri Niranjana Sahu, Sub-Collector, Khurda and Sri Durlav Charan Singh, Deputy Superintendent of Police, Khurda are present.

Heard the Complainant and all the above named opposite parties

5. It is submitted by the Complainant that he sought for information relating to his immovable properties and police cases instituted by him from the opposite parties in the form of answers to the written questions put by him. It also appears from the record that the Complainant has expected answers from the Authorities in the form of either 'Yes' or 'No'.

Let us now examine whether information in the question and answer form can be sought for by the Complainant from the Public Authorities. Sec. 3 of the Act reads as follows:

"Subject to the provision of the Act, all citizens shall have the Right to Information" (underlined by us to add emphasis).

The word "Information" has been defined in Sec 2(f) of the Act. Information means any material in any form. It does not include "question and answer form" much less only in form of 'Yes' or 'No'. Therefore, the expectation of the Complainant that the Public Authorities are bound to answer question put by him in the form 'Yes' or 'No' or by even by use of

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limited number of words are utopian and foreign to the provisions of the Act of 2005. It is found from the materials available in the record that opposite party members without entering into any legal controversy have answered some of the questions asked for by the Complainant.

6. The Public Information Officer, Board of Revenue Sri K.Sahu submitted that none of the information sought for by the Complainant relate to the Board of Revenue, Orissa, Cuttack. Therefore he had orally advised the Complainant to seek the required information from appropriate quarters. Sri Sahu has not communicated his advice in writing to the Complainant. The State Commission hereby directs Sri Sahu to communicate his above advice to the Complainant in writing within seven days from to-day. Sri Sahu has assured the State Commission to comply with the direction.

7. The other Public Authority is Sub-Collector, Khurda whose P.I.O. is the Revenue Officer, Sri Ashok Kumar Kanungo. The said P.I.O. and the Sub-collector, Sri Niranjan Sahu submitted before the State Commission that on a separate request of the Complainant a proceeding u/S 144 Cr.P.C. had been initiated on merits and as an offshoot thereof a petition was filed by him to initiate action u/s 188 I.P.C. against his adversary. They submitted to have adequately replied the Complainant. In reply the Complainant submitted that though he needed information concerning one of his houses and landed properties, the Public Information Officer and the Sub-Collector have not given reply in relation to the said house but another property of his and as such the information is misleading. The Sub-Collector stated before the State Commission that the Complainant had received the copy of the show cause filed by his adversary in the 144 Cr.P.C. proceeding. Thus there appears no basis for such queries. Moreover neither the Sub-Collector nor the Revenue Officer has any personal knowledge about the factual background of the dispute initiated by the Complainant. Their knowledge is only confined to the materials available in the Criminal misc. case record started u/S 144 Cr.P.C. The Complainant is well aware of his case and the stand taken by his

adversary since he has received the copy of the show cause filed by them. At any rate the S.D.M, Khurda has assured the State Commission to provide to the Complainant an authenticated copy of the show cause filed by the 2nd Party members u/S 144 Cr.P.C. proceedings within 7 days.

8. The third Public Authority is the Khurda District Police Administration. Sri D.C.Singh , Deputy Superintendent of Police urged before the State Commission that the information needed by the Complainant relates to the allegation of commission of cognizable offences. Number of cases have been registered u/S 154 Cr.P.C. and they are all under Police investigation, Unless the investigations are complete, information relating to the said case cannot be provided in as much as such information have been statutorily exempted u/S 8(1)(h) of the Act. Rule of law is well settled that there shall be no extraneous interferences in the free and fair investigation by the police. There appears substantial force to the above contention of the D.S.P., Sri Singh. The Complainant's prayer to get the information from the Police an authorities is therefore, cannot be sustained.

With the above observations the case of the Complainant is disposed off. The opposite parties representing the Board of Revenue, Orissa and the Office of the Sub-Collector, Khurda will do well in supplying full and relevant information to the Complainant within 7 days which has been assured by them to the State Commission.

Pronounced

Given under the hand and seal of the State Commission, this 23rd day of

May 2006.




 (D.N. Padhi)
 Hon'ble S.C.I.C
 23.5.06


 (Prof. Radhamohan
 S.I.C