

BEFORE THE ORISSA INFORMATION COMMISSION
BHUBANESWAR

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

Date 08th August, 2006

Complaint Case No-75/2006 and 76/2006



Sri Panchanan Dikshit
At/Po-Raipur,
Via-Gahanteswar,
Bhadrak District.....Complainant.

-Vrs-

1. Sri Purna Chandra Baral,
Public Information Officer
Field Establishment,
Directorate of Elementary Education
Orissa, Bhubaneswar
2. Sri Ananda Chandra Das,
Public Information Officer
Directorate of Elementary Education
Orissa, Bhubaneswar
3. Sri S.N Das
Public Information Officer
Inspector of Schools,
Bhadrak Circle
Bhadrak.....Opposite Parties

Decision

1. By this common decision both the above cases shall be disposed of since the parties concerned and the points for consideration are one and the same.
2. Complainant is absent on repeated calls. He is also not represented. Sri Ananda Chandra Das, Public Information Officer-Opposite Party No-2 and Sri S.N. Das, Public Information Officer- Opposite Party No-3, are present, Sri Purna Chandra Baral, Public Information Officer- Opposite Party No-1 is absent. In view of the statutory option available to the Complainant under Rule 9(2) of the Orissa Information Commission (Appeal Procedure) Rules, 2006 to either remain present or not, the hearing of the case can very well proceed in his absence without prejudice. Perused the contents of the Complainant's petition dated 25/05/06 and the documents filed by the Complainant. Heard the Opposite Parties as present.

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3. Briefly stated the facts are that, the Complainant filed an application dated 22/11/06 u/S 6 of the Right to Information Act, 2005 (Act for short) with the Public Information Officer- Opposite Party No-2 seeking a copy of the Enquiry Report which relates to Sri Somanath Rout, Accountant-cum-Cashier in the office of District of Inspector of Schools, Bhadrak II.
4. On 13/12/05, the said Public Information Officer- Opposite Party No-2 sent a reply vide letter no 9800 dated 13/12/05 to the Complainant stating that the desired information (Enquiry Report) and papers connected thereto have not been received in their office.
5. The Public Information Officer- Opposite Party No-2 submits that the related Enquiry Report was received in their office on 25/01/06. The Complainant submitted a fresh application u/S 6 of the Act on 13/02/06 before him. The Circle Inspector of Schools, Bhadrak II sought the permission of the Director Elementary Education vide letter no 2044 dated 10/03/06, who vide his Letter No-4863 dated 18/04/06 directed the District Inspector of Schools, Bhadrak not to give the copy of the report to the Complainant. The said letter of the Director, Elementary Education was received by the District Inspector of Schools on 09/05/06 and the Public Information Officer-Opposite Party No-2 intimated the Complainant on 23/05/06 that the Enquiry Report cannot be supplied to him.
6. It is seen from the records and the submissions of the Opposite Parties that the information which was sought for by the Complainant relates to Sri Somanath Rout who is admittedly a third party. The Public Information Officer should have initiated enquiry u/S 11 of the Act, but he has not done so as the Director, Elementary Education refused permission to him to provide the information to the Complainant. While that letter was not submitted to the State Commission, the Public Information Officer(Opposite Party No-2) has intimated in his letter no 8968 dated 07/08/06, that the matter of defalcation of Government money purportedly by Sri Panchanan Dikshit to which the Enquiry Report also relates, is subjudice in the Court of Sub Divisional Judicial Magistrate, Bhadrak and Departmental proceedings are pending at the Government Level. This submission is neither relevant nor material as the

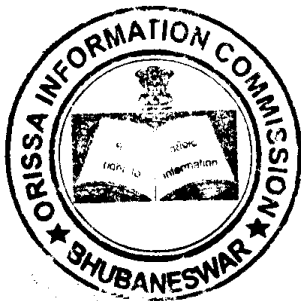
information sought related to one Sri Somanath Rout and not about the Complainant himself. It is interesting to note from paragraph B (IV) at page 5 of the Complaint petition dated 25/05/06 that Sri Dikshit has already procured a certified true copy of GR Case No 1164/95 from the Court of Hon'ble Sub Divisional Judicial Magistrate, Bhadrak, which is cited as a reason for not giving copy of the Departmental proceedings against Sri Somanath Rout.

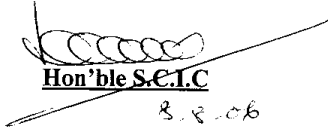
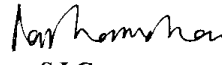
7. All the Opposite Parties submit that Disciplinary proceeding is pending against Sri Somanath Rout in the School and Mass Education Department of the Govt. and the Complainant should have approached the Public Information Officer of the said Department to get the information but he approached a wrong place. The Department who is in session of the dispute is a most necessary party to present their say in the matter.

8. After having heard the Opposite Parties, the State Commission find that the case suffers from the material defect of non-joinder of a necessary party. Therefore, the Public Information Officer- Opposite Party No-2 is hereby directed to inform the Complainant that he may submit fresh application u/S 6 of the Act before the Public Information Officer of the School and Mass Education Department so that the said Public Information Officer can dispose of his request in accordance with the provisions of Sec 6,7,and 11 of the Act. For the reasons aforesaid both the complaint cases are dismissed.

Pronounced

Given under the hand and seal of the State Commission, this 8th day of August, 2006.




Hon'ble S.C.I.C
8.8.06

S.I.C