

**ODISHA INFORMATION COMMISSION  
BHUBANESWAR**

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

**Date 16<sup>th</sup> October, 2020**

**Second Appeal No.54 /2017**

Amulya Chandra Das,  
C/o-Chetana Chakra,  
House of Pramod Kumar Mishra,  
Kali Mandir Lane, (by the side of Rly Line)  
Sarbodaya Nagar,  
Dist-Puri.....Appellant

**-Vrs-**

1. Public Information Officer,  
Office of the IG of Police,  
CID, CB, Odisha,  
Dist-Cuttack
2. First Appellate Authority  
Office of the IG of Police,  
CID, CB, Odisha,  
Dist-Cuttack, .....Respondents

**Decision**

1. Appellant, Amulya Chandra Das, is not present. Pradipta Kumar Tripathy, APIO-cum-Additional Superintendent of Police; Diptimayee Mallick, Inspector of Police and Balaram Nayak, Inspector of Police, Office of the Inspector General of Police CID, Crime Branch, Odisha are present. The APIO has filed a written submission.

2. Vide an application in Form-A dated 16.06.2016 submitted before the PIO, office of the Special Director General of Police, Crime Branch, Government of Odisha, the appellant had requested the PIO to provide him Xerox copies of the evidentiary papers including note-sheets, correspondences and statements, if any, recorded during the course of investigation in pursuance of the prayer made by him vide a petition dated 16.04.2016 for reopening of and reinvestigation into UD Case No.14/2006-cum-G.R. Case No.278/2006 registered at Mangalpur Police Station in the context of the death of his son, Prakash Chandra Das.

**2.1** The PIO issued a Form-C dated 23.06.2016 rejecting the appellant's application. It was stated that vide a Notification dated 29.10.2005 of the Government in I & PR Department, the Crime Branch, Criminal Investigation Department, Odisha had been exempted, under Section 24(4), from the purview of the RTI Act, 2005. The PIO all the same intimated to the appellant that his petition dated 16.04.2016 had been sent to the Office of the Superintendent of Police, Jajpur for enquiry.

**3.** Aggrieved, the appellant filed first appeal vide appeal memos in Form-D dated 17.08.2016 & 26.08.2016. The First Appellate Authority disposed of the appeal vide an order dated 19.09.2016 thereby confirming the stand taken by the PIO.

**3.1** The appellant then filed the subject second appeal vide an appeal memo in Form-E dated 06.01.2017 contending that although in the Form-C dated 23.06.2016 the PIO stated, inter alia, that his petition dated 16.04.2016 had been sent to the Superintendent of Police, Jajpur vide letter dated 03.05.2016 for enquiry, neither the PIO nor the Superintendent of Police, Jajpur informed about further actions taken, if any. It was also contended by the appellant that the death of his son had taken place under circumstances in violation of human rights and, therefore, the First Appellate Authority was not justified in upholding the order of the PIO who had invoked Section 24(1) and had disregarded the proviso thereto. It was also contended by the appellant that he had brought before the Head of the Crime Branch the case of unnatural death of his son which escaped the notice of the Police, including the OIC, Mangalpur Police Station, during their investigations. Therefore, it was for the Head of the Crime Branch of Police, who was the competent authority, to expose the facts and also to provide adequate security to his family members and himself. The appellant also stated that the Superintendent of Police, Jajpur might have taken action and the same could be communicated to the AIG, Crime Branch, if so directed. Contending as above, the appellant pleaded that justice be rendered to him.

**4.** This case was earlier heard on four occasions. At the time of the initial hearing, the PIO of the office of the Superintendent of Police, CID, CB submitted that the appellant's petition dated 16.04.2016 had been sent to the Superintendent of Police, Jajpur vide a letter dated 03.05.2016 for enquiry; and, neither the PIO nor the Superintendent of Police, Jajpur informed about further actions taken, if any. The appellant on the other hand

reiterated the ground raised by him that the PIO was not justified in rejecting his application by referring to the Notification issued under Section 24(4) of the Act when the death of his son had taken place under circumstances which were violative of human rights.

**4.1** The Commission considered the submissions made by both the parties and observed that even while the PIO had forwarded the appellant's petition dated 16.04.2016 to the Superintendent of Police, Jajpur, his application in Form-A was not transferred under Section 6(3) of the Act to the PIO of the said office which was prima facie a lapse on the part of the concerned PIO. Instead of doing so, the PIO rejected the appellant's application. The Commission further observed that in the submissions made by the respondents, there was no reference to the appellant's allegation that human rights had been violated. The Commission therefore directed the concerned PIO to submit explanation in the matter. The incumbent PIO was also directed to submit a copy of the enquiry report for the Commission's perusal.

**4.2** In compliance of the above direction, the PIO during a subsequent hearing submitted that the enquiry report had since been received and could be provided to the appellant on the basis of a fresh application. The appellant argued that when he had already filed an application in Form-A, there was no need for submitting a fresh application and the report should be provided to him on the basis of the relevant application. The Commission observed that the appellant had not specifically asked for a copy of the enquiry report. Instead, he had asked for copies of all papers including note-sheets, letters, correspondences, statements recorded etc. in the course of investigation. The PIO therefore was directed to state whether or not the above documents etc. were available with the public authority or in the office of the Superintendent of Police, Jajpur so as to be provided to the appellant.

**4.3** In response, the PIO submitted a copy of the enquiry report and stated that the note-sheets etc as available with Crime Branch would be shared with the appellant. In a further written submission dated 18.06.2020, the APIO informed the Commission that a letter had since been issued to the Superintendent of Police, Jajpur to supply copies of the note-sheets, letters, correspondences and statements available in his office in connection with the case in question.

**5.** The APIO who is present has submitted before the Commission copies of the note-sheets and other documents as received from the Superintendent of Police, Jajpur. During the course of the hearing, the Commission enquired of the respondents if they have any objection to sharing the note-sheets and documents with the appellant. The APIO has stated in response that the Commission may decide the matter. In the light of the submission thus made, the Commission proceeds to decide the case on merits as under:

**5.1** The appellant's application for information related to investigations into the death of his son under suspicious circumstances. In his petition dated 16.04.2016, the appellant had alleged that his son had died because of a well-planned conspiracy. It was the appellant's apprehension that a planned murder had been projected / camouflaged as a suicide in order to suppress the real facts. The appellant had also stated in his petition that there were dangers to the life and safety of himself and his family members. A close reading of the appellant's petition dated 16.04.2016 amply indicates allegation of Violation of Human Rights. Even in the second appeal memo, the appellant questioned how the Notification issued under Section 24(4) could be extended to the subject matter of the information required by him when the unnatural death of his son was a murder and also when there were threats to the lives of himself and his family members. During the course of the hearings before this Commission, the appellant reiterated the above contentions raised in the appeal memo and argued that the Notification under Section 24(4) would not apply. In view of the contentions thus raised by the appellant in the petition dated 16.04.2016 as well as subsequently, the Commission is of the considered view that the PIO should not have resorted to a blanket rejection of the appellant's application by routinely relying upon the Notification issued by the Government. Instead, applicability of the exceptions to Section 24(4) as contained in the proviso thereto ought to have been examined. The failure of the PIO to do so must be said to have vitiated his decision. The same must also be said of the order of the First Appellate Authority.

**5.2** As already noted, even while rejecting the appellant's application by referring to the Notification issued by the Government under Section 24(4) of the RTI Act, 2005, which has been held as incorrect, the PIO had also intimated to the appellant that his petition dated 16.04.2016 had been sent to the Superintendent of Police, Jajpur vide a letter

dated 03.05.2016 for enquiry. As the petition had been sent to the Office of the Superintendent of Police, Jajpur, the PIO of the Office of the Inspector General of Police, C.I.D, Crime Branch, Odisha ought to have transferred the appellant's application in Form-A also to the PIO of the Office of the Superintendent of Police, Jajpur under Section 6(3) of the RTI Act, 2005. A plea was raised during the course of the proceedings that the application was not transferred as the enquiry report was to be received from the Jajpur Office and had not yet been received. The above plea is bereft of merit. For, as per Section 6(3) of the Act, the transfer of an application "shall be made as soon as practicable but in no case later than five days from the date of receipt of the application". The time-limit thus stipulated can not be extended under any circumstances. The expression "in no case later than five days" under-scores the above. It must also be observed here that even an organisation notified under Section 24(4) has to transfer an application under Section 6(3) by strictly following the time-limit stipulated therein because such an organisation does not cease to be a public authority and also can not cease to have a PIO for the simple reason that in situations falling within the scope of the proviso to Sub-Section (4) of Section 24, the obligation to furnish information still remains. When the organisation continues to be a public authority within the meaning of the RTI Act, 2005 and also continues to have a PIO, the obligation to transfer an application for information, the subject matter of which relates to another public authority, can not be wished away. Hence, the PIO of the Office of the Inspector General of Police, C.I.D, Crime Branch, Odisha was grossly in error in not effecting the transfer.

**5.3** As the PIO was not justified in rejecting the appellant's application outright by merely relying on the Notification and also as the PIO had erred in not transferring the appellant's application under Section 6(3) of the RTI Act, 2005 to the PIO of the Office of the Superintendent of Police, Jajpur, the Commission hereby directs the PIO of the Office of the Inspector General of Police, C.I.D, Crime Branch, Odisha to furnish to the appellant the information which have since been received from the Office of the Superintendent of Police, Jajpur. The PIO shall carry out the above direction within seven days from the date of receipt of this order under intimation to this Commission.

**5.4** If the appellant does not get the information from the PIO as directed, he shall be at liberty to raise his grievance on this score before this Commission by taking recourse to appropriate provisions of the RTI Act, 2005.

**5.5** Having directed thus, the Commission also directs the Ex-PIO of the Office of the Inspector General of Police, C.I.D, Crime Branch, Odisha to show-cause why action under Section 20 of the RTI Act, 2005 should not be taken against him for the lapses on his part pointed out in this order viz. failure to apply the proviso to Section 24(4) to the information sought by the appellant and failure to transfer the application under Section 6(3) of the RTI Act, 2005 to the PIO of the Office of the Superintendent of Police, Jajpur.

**6.** With the above observations and directions, the subject second appeal in so far as it relates to furnishing of information stands disposed of. Proceedings under Section 20 of the RTI Act, 2005 in the case of the Ex-PIO shall continue.

**Pronounced in open proceedings**

Given under the hand and seal of the Commission this day, the 16<sup>th</sup> October, 2020.

**State Chief Information Commissioner  
16.10.2020**