

**ODISHA INFORMATION COMMISSION
BHUBANESWAR**

Present: Shri Pramod Kumar Mohanty
State Information Commissioner

Dated 28th February, 2013

Second Appeal No.518/2012

Susant Kumar Bhutia,
Co-ordinator, Hindol Welfare Association,
Laxmibazar Hindol,
PO-Dhenkanal,
Dhenkanal district.....Appellant

-vrs-

1. Public Information Officer,
2. First Appellate Authority,
Office of the Tahasildar, Hindol,
Dhenkanal district.....Respondents

Decision

1. Appellant Susant Kumar Bhutia is present along with his representative Prabodh Kumar Pal. Susama Pattanaik, PIO-cum-Head Clerk, Tahasil Office, Hindol, Dhenkanal district is present and has filed a written memorandum which is perused and taken to record. Heard and perused the case record.
2. The appellant in his second appeal memorandum had submitted that he was not provided with the information required in his form A application filed on 9.2.12 in spite of filing of the first appeal before the First Appellate Authority on 7.4.12. He had further alleged that the First Appellate Authority had neither issued any notice to him nor provided him any information.
3. It is revealed from the records that the appellant had sought the following information his form A application.
 - (1) Mutation cases suo-motto opened & made:-
 - (a) Year wise list of applications received from Sub-registration office, Hindol from 2008-09 to 2011-12.
 - (b) List of mutation cases started from 2008-09 to 2011-12.
 - (c) List of mutation cases allowed from 2008-09 to 2011-12 with name and address of party. Whether I/S issued to concerned R.I or not with reason?

- (d) List of mutation cases rejected from 2008-09 to 2011-12 with reason & name and address of party.
 - (e) List of mutation cases pending for disposal from 2008-09 to 2011-12 with reason & name and address of party.
 - (f) Whether pata issued to the party against (c) above? If not issued with reason.
- (2) Mutation cases opened on application of party from 2008-09 to 2011-12:-
- (a) List of mutation cases started on application of party with case number and date. And name & address of party for the period from 2008-09 to 2011-12.
 - (b) List of mutation cases allowed from 2008-09 to 2011-12 with name and address of party. Whether I/S issued to concerned R.I. or not with reason?
 - (c) List of mutation cases rejected from 2008-09 to 2011-12 with reason & name and address of party.
 - (d) List of mutation cases pending for disposal from 2008-09 to 2011-12 with reason and name & address of party.
 - (e) Whether pata issued to the party against (b) above? If not issued with reason.
- (3) Regarding black granite quarries for 2011-12:-
- (a) Name of quarries auctioned with auctioned price & name and address of auction holder for 2011-12 with settled price along with holding number, plot number and area of each quarry.
 - (b) K-form Books issued for each quarry with book No. & receipt numbers and date.
 - (c) To whom mineral issued with quantity against each book.
- (4) Regarding leased out black granite quarries for 2011-12 :-
- (a) Name of quarries leased out with settled annual lease price & name and address of lease holder along with holding number, plot number & area of each quarry.
 - (b) K-form book issued for each quarry with book no. & receipt number & date.

- (c) To whom mineral issued with quantity against each book.
- (5) Regarding demarcation of land from 01.01.2008 to 31.12.2011 :-
- (a) List of demarcation application received year wise from 01.01.2008 to 31.12.2011 with name and address and date of receipt.
 - (b) List of cases demarcated year wise with name & address and date of demarcation.
 - (c) List of demarcation cases pending with reason and the probable date of completion.
4. The PIO had submitted before the Commission that the appellant had sought several voluminous information which was difficult to be collected from the concerned records, collated and then provided to the appellant, for which, it had taken some time. But in the meantime, the appellant had filed first appeal. Thereafter, certain information which was made available to the PIO by the office, was provided to the appellant on 6.6.12 after deposit of the cost of ` 50/- required from him.
5. The representative of the appellant, during hearing of the case submitted that the PIO wilfully did not provide him the information within the statutory period of 30 days, for which, he had approached the First Appellate Authority. Thereafter, even some incomplete information was provided to the appellant, but majority of the information regarding the mutation cases and demarcation cases etc. were not provided to him. He further submitted that if the information was considered voluminous, the same could have been provided during last one year. But the PIO did not take any action intentionally.
6. After hearing both the parties and on perusal of the records, the Commission observed that the appellant had sought voluminous information relating to mutation cases, quarry leases as well as demarcation cases in the lengthy formats prescribed by him. This would no doubt require a lot of time to collect the information from individual case records as well as collate them in order to comply the information requirement of the appellant. In this context, the Commission considers it appropriate to refer to several judgements of Hon'ble

High Court of Andhra Pradesh and Hon'ble Supreme Court of India. The relevant portions of the judgements are quoted below :-

In Divakar S. Natarajan. Vs State Information Commissioner (Writ Petition No.20182 of 2008 decided on 27.1.2009), the Hon'ble High Court of Andhra Pradesh had held as follows :-

"The Act is an effective device; which, if utilized judiciously and properly, would help the citizens to become more informed. It no doubt relieves an applicant from the obligation to disclose the reason as to why he wants the information. However, indiscriminate efforts to secure information just for the sake of it, and without there being any useful purpose to serve, would only put enormous pressure on the limited human resources, that are available. Diversion of such resources, for this task would obviously, be, at the cost of ordinary functioning. Beyond a point, it may even become harassment, for the concerned agencies."

Similarly in Dr.A. Sudhakar Reddy vs. A.P. State Information Commission (Writ Petition No.3207 of 2009, the Hon'ble High Court of Andhra Pradesh had held as follows :-

The Parliament does not appear to have anticipated the level to which, the Act would be misused. A Clause contained in the Act, that an individual shall not be required to state the purpose for which the information is prayed for is required, became handy for many, who have leisure time at their disposal, to take various Government and Public Authorities for a ride. The application submitted by the petitioner on 23.05.2008 contains six paragraphs. All possible questions, in relation to Ac.3.05 guntas of land in Sy.No.465 of Mottesivar, Ashoknagar, Jagtial, were sought. The petitioner thought that by paying Rs. 10/-, under the Act, he can command the Municipality, at his disposal.

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This Court is of the view that the petitioner has resorted to gross misuse of the provisions of the Act; and no relief can be granted to him."

Hon'ble Supreme Court of India in Civil Appeal No.6454 of 2011 decided on 9.8.2011 had also held as follows :-

“The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising ‘information furnishing’, at the cost of their normal and regular duties.”

7. In this context, the Commission would like to refer to another judgement of the Hon’ble Supreme Court of India in *Namit Sharma Vs Union of India* decided on 13.9.12 in which the Hon’ble Court had held as follows:-

“Thus, it is abundantly clear that the Information Commission is bound by the law of precedence, i.e., judgements of the High Court and the Supreme Court of India. In order to maintain judicial discipline and consistency in the functioning of the Commission, we direct that the Commission shall give appropriate attention to the doctrine of precedence and shall not overlook the judgements of the courts dealing with the subject and principles applicable, in a given case.”

8. In view of the above pronouncements of the Hon’ble High Courts and Supreme Court of India, the Commission is of the opinion that the appellant should not have sought such voluminous information which was not possible to be provided within the statutory period of 30 days. The plea taken by the appellant that the information could have been provided to him anytime during the last one year is not acceptable because of the specific provisions contained in Section 7(1) of the RTI Act, 2005. In the instant case, the PIO has, however, provided some information to the appellant after the statutory period was over. But the Commission, because of the aforesaid reasons, did not consider taking any action against the PIO for non-furnishing of the complete information desired by the appellant within the statutory period of 30 days. However, the Commission observed that the PIO should not have charged the cost for furnishing of information after the statutory period of 30 days was over in contravention of Section 7(6) of the RTI Act, 2005. She is, therefore, directed to refund this amount collected from the appellant within 15 days under intimation to the Commission.

9. With the above observations and directions the second appeal is disposed of with no orders on penalty.

Pronounced in open Proceedings

Given under the hand and seal of the State Commission, this the 28th day of February, 2013.

Sd/-

State Information Commissioner

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