

**OFFICE OF THE
ASSAM STATE INFORMATION COMMISSION
JONAKEE COMPLEX, PANJABARI, GUWAHATI-781 037**

2nd appeal Case No. : KP(M) 281/2013

Appellant: Sri Harinarayan Pathak is present

Respondent : FAA- Finance Secretary & SPIO/ Deputy Secretary. Finance
(Taxation) Department :

Date of hearing : 18-11-2015

Complaint/ Second : Shri P. Basumatary, IA&AS (Retd)
Appeal heard by State Information Commissioner, Assam

O R D E R
18.11.15

Public Authority was represented by (1) Md. I. Haque, Secretary, Govt. of Assam, Finance Department and First Appellate Authority, (2) Shri S.N. Sarma, Deputy Secretary, Govt. of Assam, Finance (Taxation) Deptt., and (3) Shri Manoj Malakar, Jr. AA, Finance (Taxation) Department.

Appellant Shri Harinarayan Pathak was present.

Perused the case records and the written statements submitted separately by First Appellate Authority also the SPIO.

The appellant submitted that the files which could not be produced to him are numbered FTX.208/99, FTX.56/2003, FTX 142/2001, FTX 164/2001 and FTX 199/2002.

The First Appellate Authority and the ASPIO submitted that these files could not be located in spite of formal inquiry by an official.

Perused the Inquiry Officer's report. The report stated that the said files got lost on account of the shifting of the department to the new building, and it was not possible to trace them in spite of several searches in his presence.

As regards responsibility for the loss of the said files, the Inquiry Officer reported that since the way the files went missing could not be ascertained, responsibility could not be fixed for it.

The appellant submitted that information from the said files was necessary for him to connect with the information he has already received.

On perusal of the report of the aforesaid Inquiry Officer it is seen that the report was summary in nature without detailing the procedure that had been followed in the inquiry and that there was no reasoned justification for not identifying the officials responsible for the loss of official records.

Considering the facts and circumstances of the case, the Commission hereby orders that the Finance Department will endeavour again to locate the missing files so that the

information sought for by the Applicant under the RTI Act, 2005 could be made available to him fully.

Further, the Commission is of the opinion that there is scope for a more systematic inquiry to be made in view of the issue of missing files. The Commission therefore, orders that the Department will cause fresh inquiry by an officer of appropriate seniority and status to determine whether proper procedure had been followed in the movement of files from the previous to the new office building and identify the individual officials who were responsible for the safe custody and systematic movement and accounting for official files while moving them to the new office building and who had failed in their duties. The Department may also consider having the inquiry conducted by a committee of at least two members instead of a one-man committee. The objective of the committee should be to enable the Department to take appropriate action against officials guilty of dereliction of duty, if any, to serve as deterrent to lack of care in handling and safe custody of Government records.

The inquiry process may be completed and the report submitted to the Department and the outcome of the inquiry communicated to the Appellant with a copy of the committee's report within a period of 45 days of receipt of this order. This time frame is given in consideration of the representation of the Public Authority that time is required in view of the ensuing session of the Legislative Assembly.

With this the second appeal petition is disposed of.

The appellant will, however, be free to approach this Commission, if he is not satisfied with the response of the public authority.

(P. Basumatary)
Assam State Information Commissioner,
Panjabari, Guwahati

Authenticated true copy.

Secretary & Registrar
Assam State Information Commission

Memo No. KP(M),281/2013/

Dtd. 18-11-2015

Copy to:

1. First Appellate Authority & Secretary, Govt. of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for information and necessary action.
2. ASPIO & Deputy Secretary to the govt. of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for information and necessary action.
3. Sri Harinarayan Pathak ,Padum Pukhuri, Uzan Bazar, Guwahati-781001 for information
4. Computer Section for uploading in the Website.
5. Office File.

Secretary & Registrar
Assam State Information Commission