

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

Case No. : BPT.23/2014
Complainant/ Appellant : Md. Aynal Hoque Choudhury.
Respondent : The SPIO, O/o the D. C., Barpeta, Assam.
Date of hearing : 30.12.2015
Complaint/ Second Appeal heard by : Shri Pinuel Basumatary, IA&AS (Retd),
State Information Commissioner, Assam

O R D E R
30.12.2015

Petitioner is present. SPIO absent. However, a Written Statement dated 29/12/15 received from the SPIO.

Through the W/S, the SPIO has detailed the action taken for providing information to the Appellant/Petitioner. The SPIO has submitted that the report received from the concerned Additional Deputy Commissioner, Barpeta dated 17/2/2014 had been forwarded to the Appellant/Petitioner through letter dated 21/2/2014. In the said letter of 17/2/2014, the A.D.C. (Encroachment Branch) has stated that the information sought for by the Petitioner 'could not be furnished at present' under Section 8 (1) (h) of the RTI Act, 2005 for the reason that the matter is sub judice in the Hon'ble Gauhati High Court.

The Appellant has submitted that he has not only not received the information he had sought for but also has not received any order from the First Appellate Authority as regards to the First Appeal dated 17/2/2014. He further submitted that providing the information relating to the land in question which he had sought for will in no way prejudice the reported lawsuit.

The Commission observes that in his aforementioned letter no. BRSE-12/2013/16 dated 17/2/2014, the A.D.C. (Encroachment Branch), Barpeta has simply stated that the information relating to the sub judice matter could not be furnished under Section 8 (1) (h) of the RTI Act, 2005 without giving any detailed reasoning as to how providing the information would be prejudicial to the reported on going law suit. The Commission further observes that according to Section 8 (1) (h) of the RTI Act, 2005, there shall be no obligation to give any citizen which would impede the process of investigation or apprehension or prosecution of offenders and concludes that the information sought for by the Appellant could not be said to be covered by this Section/Sub-Section. It is seen that the information which the Appellant has sought pertains to land area of a particular reserve and daps within the reserve an allocation of land to individual and a market.

After a careful consideration of the facts and circumstances brought out in the forgoing paras, the Commission concludes that there is no justified impediment in the matter of providing the information sought for by the Appellant under the provisions of the RTI Act, 2005 and therefore, orders that the SPIO shall furnish the information, free of cost, within a period of 10 days of receipt of this order.

The Commission further orders that the Deputy Commissioner as First Appellate Authority may consider and dispose of with a speaking order the First Appeal dated 17/2/2014 submitted by the Appellant, within a period of 15 days of receipt of this order.

Sd/-
Pinuel Basumatary
State Information Commissioner, Assam
Panjabari, Guwahati

Authenticated true copy.
Sd/-
Secretary & Registrar
Assam State Information Commission

Copy to:

1. The SPIO/Additional Deputy Commissioner (Encroachment Branch), Barpeta, Dist- Barpeta, Assam, Pin- 781301 for information and necessary action.
2. The First Appellate Authority/Deputy Commissioner, Barpeta, Assam, Pin-781301 for information and necessary action.
3. Md. Aynal Hoque Choudhury, S/o- Lt. Ali Miah, Vill- Haripur, P.O.- Baharihat, P.S.- Tarabari, Mouza- Chenga, Dist- Barpeta, Assam, Pin- 781301 for information.
4. Computer Section for uploading in the Website.
5. Office File.

Secretary & Registrar
Assam State Information Commission