

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

Case No. : SIC/KP (M).9/2014
Appellant : Sri Harinarayan Pathak
Respondent : The SPIO, O/o Registrar of Co-operative Societies, Assam
Khanapara
Date of hearing : 12.05.2016
Second Appeal heard by : Smt. Nilufer Alam Hazarika, IAS (Retd.)
State Information Commissioner, Assam

O R D E R
12.05.2016

The petitioner Sri Harinarayan Pathak is present.

The Public Authority is represented by Sri B.B. Dev Choudhury, SPIO/Addl. R.C.S, Assam Sri A.K. Baishya, Joint Registrar and Sri Rakesh Hazarika, Dealing Assistant.

The petitioner filed his RTI application dated 29.05.2013 addressed to the SPIO, Office of the Registrar, Co-operative Societies which was forwarded to the Joint Registrar of Co-operative Societies, Assam vide letter dated 06.06.2013 for furnishing of information. The petitioner filed his First Appeal dated 16.08.2013 addressed to the Registrar Co-operative Societies, Assam who fixed a date for hearing but the First Appellate Authority had not passed any order. The petitioner submitted his Reminder First Appeal on 07.10.2013 but had not received any order.

The SPIO has submitted a written statement dated 11.05.2016 informing that the then SPIO Smt. Kabita Rani Das had received the RTI application of Sri Harinarayan Pathak on 29.05.2013 which was referred to the Joint Registrar, Co-operative Societies, Assam for furnishing the information vide letter dated 06.06.2013. The petitioner made an Appeal before the First Appellate Authority (FAA) i.e. the Registrar, Co-operative Societies, Assam on 16.08.2013. The FAA had fixed a date for hearing on 16.09.2013 but the petitioner was absent in the hearing. The petitioner made another Reminder First Appeal dated 07.10.2013 and subsequently the then Addl. Registrar, Co-operative Societies, Assam, directed the SPIO to furnish the information vide letter dated 21.04.2014. The SPIO furnished a copy of the letter received from the Joint Director, Co-operative Societies, Assam to the petitioner Sri Harinarayan Pathak on 11.05.2016 wherein the Joint Director has stated that the information as desired could not be traced in the office.

The Petitioner stated in his Second Appeal dated 07.12.2013 that on his First Appeal dated 16.08.2013 and Reminder First Appeal dated 07.10.2013, he had not received any information till the date of filing the Second Appeal. He has alleged total negligence of the SPIO and willful negligence of the FAA of the Public Authority concerned.

The Commission is of the view that non-tracing of record does not lead to the conclusion that records are not available or does not exist. As per section 7 (1) of the RTI Act, 2005, the SPIO on receipt of request for information under section 6 shall provide the information on payment of fees as prescribed or reject the request for any of the reasons specified under section 8 and 9.

Heard both the parties present. During the hearing, the petitioner has stated that the Head of the office, i.e. the Registrar of Co-operative Societies should be instructed to look into the entire matter and dispose of the same as several SPIOs have been transferred during the period of appeal. The Commission, therefore, remands the First Appeal petition dated 16.08.2013 to the FAA i.e. the Registrar, Co-operative Societies, Khanapara, Assam to dispose the matter, with a speaking order after hearing the petitioner, within a period of 30 days from the date of receipt of this order.

The petitioner will be at liberty to approach this Commission, if he is aggrieved with the decision of the FAA or because of non-disposal of his First Appeal by the FAA.

With the above direction, the Second Appeal dated 07.12.2013 is disposed of.

Sd/-
Nilufer Alam Hazarika, IAS (Retd.)
State Information Commissioner, Assam
Panjabari, Guwahati

Authenticated true copy
Sd/-
Deputy Registrar
Assam Information Commission

Copy to:

1. The SPIO, Office of the Registrar of Co-operative Societies, Assam, Khanapara, Assam, Pin-781022 for information and necessary action.
2. The First Appellate Authority/ Registrar of Co-operative Societies, Assam, Khanapara, Assam, Pin-781022 for information and necessary action
3. Sri Harinarayan Pathak, Padumpukhuri, Uzanbazar, Guwahati, Assam, Pin-781001 for information.
4. Computer Section for uploading in the Website.
5. Office File.

Deputy Registrar
Assam Information Commission