



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

Case No. : SIC/KRJ.38/2011
Complainant : Sri A.K Rakshit
Respondent : The SPIO, O/o the Director of Education, BTC,
Kokrajhar
Date of hearing : 02.06.2016
Complaint heard by : Smt. Nilufer Alam Hazarika, IAS (Retd.)
State Information Commissioner, Assam

O R D E R
02.06.2016

The petitioner Sri A. K Rakshit is absent.

The Public Authority is represented by Sri Chabiram Brahma, Supdt., Directorate of Education, BTC, Kokrajhar. He however had not been authorized or deputed by the SPIO. The SPIO is also absent.

In view of the large number of cases pending before the Commission, the instant matter is taken up for hearing based on record.

On perusal of records, it appears that the Commission had disposed of the matter vide order dated 20.05.2015 and 05.11.2015. The Second Appeal dated 18.10.2011 was taken up for hearing on 20.05.2015 in presence of both the parties. The main prayer of the petitioner was to get a copy of the office order of reinstatement of Smt Binada Kalita, Asstt. Teacher. After hearing both the parties, it transpired that no reinstatement order in favor of Smt. Binada Kalita had been passed by the appointing authority *i.e.* the Director of Education, BTC till date. Nor is there any formal order terminating her services. The Commission therefore directed the Director of Education, BTC to formally enquire into the matter and pass a speaking order within 30 days from the date of receipt of the order and give a copy of the same to the petitioner as well as to Smt. Binada Kalita. The Director of Education, BTC was also directed to submit a compliance report to the Commission within 45 days from the date of receipt of the order.

The Director of Education, BTC, passed a speaking order on 25.06.2015 based on the hearing dated 22.05.2015 on the grounds noted in the order, the Director Education, BTC was pleased to terminate the service of Smt. Binada Kalita, Asstt. Teacher, Banimandir High School, Charaimari with retrospective effect in the light of order dated 21.03.2009.

The petitioner on 23.06.2015 filed a complaint before the Commission that Director of Education, BTC, issued a notice on 06.06.2015 fixing 11.06.2015 for hearing. Another notice was issued by the Inspector of Schools, BTC, Musalpur on 19.06.2015 for hearing on 22.06.2015 which he could not attend for some urgent work. He complained as such short notice for hearing was not justified as per the (Discipline and Appeal) rules 1964 where the accused person has to be given at least 10 days notice. He also alleged that no formal enquiry into the matter was done by the Director of Education, BTC as directed by the Commission order dated 20.05.2015. Therefore, the Director of Education, BTC should make a speaking order of reinstatement in service as no notice of termination or discharge or dismissal was issued to Smt. Binada Kalita.

Based on the Complaint, hearing was fixed by the Commission on 05.11.2015 and after hearing both the parties, the Commission ordered that a formal enquiry to be conducted into the matter and based on the findings, pass a speaking order within 40 days from the date of receipt of the order and give a copy of the order to the petitioner as well as to Smt. Binada Kalita.

On 30.11.2015, the petitioner filed a Complaint addressed to the Director of Education, BTC that his petition dated 23.06.2015 was not taken into consideration and as such there is no other way for the Director, Education, BTC to take any other decision except making a speaking order for reinstatement in service in the case of Smt. Binada Kalita. Hence, the order dated 25.06.2015 passed by the Director of Education, BTC with retrospective effect was not valid otherwise he will be liable for imposing penalty under section 20 (1) & 20 (2) of the RTI Act,

2005. Therefore, he should take immediate action for reinstatement in service by a speaking order as per the direction of the hearing dated 20.05.2015.

The petitioner filed a petition before the Commission on 25.04.2016 enclosing a copy of the order of the Director of Education, BTC dated 11.12.2015 and alleged that the copy of the order was not marked to the petitioner and that the order was not in the state language for easy understanding. Due to failure to furnish a copy of the order to the applicant, Director, Education, BTC should be penalized under section 20 (1) and 20 (2) of the RTI Act, 2005.

On careful perusal of the relevant documents, it appears that action was taken by the Director of Education, BTC as per direction of the Commission's order dated 20.05.2015 and 05.11.2015. In the instant case, the SPIO has neither refused to receive any application for information nor has denied the request for information or knowingly given incorrect, misleading information. Therefore, the appeal of the petitioner that the Director of Education, BTC should be penalized under section 20 (1) and 20 (2) of the RTI Act, 2005 does not arise. It however appears that copies of the order had been marked to all others including the affected teacher, Smt. Bonoda Kalita on whose behalf the petition has been filed except the petitioner. The SPIO is directed to furnish a copy of the same to the petitioner.

It also appears that the petitioner has complained that the order was not issued in state language for easy understanding. Throughout the entire process, the petitioner had submitted all his petitions in English there appear no reason why he should complaint for furnishing of information in English. The Commission therefore directs the petitioner Sri A.K. Rakshit to withdraw such unreasonable petitions to save the Public Authority and Appellate Authority from doing unnecessary and redundant work.

The Petitioner complained of natural justice and throughout his complaint petitions he had stated that immediate action for reinstatement in service by a speaking order be made. Under the RTI Act, 2005, the petitioner's right extends only to seeking information as defined in Section 2 (f) by pinpointing the paper or record etc as available. As no order of reinstatement in service was passed and is not a part of the record of Public Authority, the Public Authority is not required to furnish such information under the RTI Act, 2005.

With the above order, the Complaint petition dated 25.04.2016 is dismissed.

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

Authenticated true copy

Sd/-
Deputy Registrar
Assam Information Commission

Memo No. SIC/KRJ.38/2011/ 78 -A

Dtd. 02.06.2016

Copy to:

1. The SPIO, Office of the Director of Education, BTC, Dist- Kokrajhar, Assam for information.
2. Sri A.K. Rakshit, Law Secretary, Advisory Board, AGSS, Barama, Assam for information.
3. Computer Section for uploading in the Website.
4. Office File.

Deputy Registrar
Assam Information Commission