



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

Case No. : **KP(M) 239/2014**

Complainant/ appellant : **Sri Kamalesh Kamat**

Respondent : **Directorate of Food, Civil Supplies and Consumer Affairs**

Date of hearing : **20-06-2016**

Complaint/ Second : **Shri H.S. Das, IAS (Retd)**
appeal heard by **Chief Information Commissioner, Assam**

O R D E R

The petitioner Sri Kamalesh Kamat is absent without information. The public authority is represented by :- (1) Sri Gobinda Ch. Kalita, Superintendent –cum-SPIO of the Directorate of Food, Civil Supplies and Consumer Affairs, and (2) Sri Dhiraj Baishya, Junior Assistant of the same office.

The second appeal petition dated 15-3-2014 is taken up for hearing ex-parte in the absence of the petitioner.

From perusal of the case records it is seen that the petitioner Sri Kamalesh Kamat filed an RTI petition dated 28-11-2013 before the SPIO of the office of Directorate of Food & Civil Supplies and Consumer Affairs, Govt. of Assam, seeking the following informations:-

1. **Please furnish the monthly returns of APL PDS wheat and PDS W/M Atta of RF Mills of Goalpara and Dhubri District from the month of January, 2013 to upto date both calendar monthwise and quota wise both for regular and additional allocation of APL PDS Wheat available in your office and record relied upon while making allocation of PDS Wheat for RF Mills of Goalpara and Dhubri District.**
2. **As per Govt. of India guidelines any unlifted stocks of APL PDS atta is to be adjusted in the succeeding months and the allocation of the APL PDS Wheat has to be reduced as per the unlifted Wheat or Atta lying in the District . What is the basis followed by your office in allocating the APL PDS Wheat to the RF Mills of Goalpara and Dhubri District.**
3. **Please furnish the list of FI card Holders who have lifted APL PDS Atta along with quantity allocation wise from January' 2013 to upto date in Goalpara and Dhubri District.**

4. As per the Assam Public Distribution of Article Order' 1982 is it mandatory of the Fair Price Shops to issue Cash memos to Family Identity Card Holders while issuing PDS Commodities? If cash memos are not issued by the Fair Price shops then is it permissible under the Assam Public Distribution or Articles Order' 1982 ?

The SPIO of the Directorate of FCS&CA submitted a written statement dated 17th June, 2016 with a number of enclosures which have been entered into the case records.

From the Written Submission and the enclosures it is seen that Sri S. Mewara the First Appellate Authority of Food and Civil Supplies and Consumer Affairs Department had passed an order on 7-11-2014 on an appeal petition dated 20-8-2014 filed by the applicant. This order was much after the second appeal petition i.e., 15-3-2014 filed before this Commission. It is seen from the order of the First Appellate Authority, that the Director, FCS&CA, Assam had already provided the information to the applicant and the applicant Sri Kamalesh Kamat was not present at the time of hearing of the First Appeal petition to tell the First Appellate Authority which or what information had not been provided to him. The SPIO of FCS&CA present today further submitted that the applicant Sri Kamat has been filing large number of RTI petitions, but he never appears in person as and when invited to inspect the documents or at the time of hearing of the First Appeal Petition. They suspect that the applicant Sri Kamalesh Kamat is a fictitious person, because when the Directorate send their letters to Sri Kamat at his given address by special messenger, the messenger reported that no one by the name of Sri Kamalesh Kamat lives in that address. So, they suspect that the large number of RTI cases filed in the name of Sri Kamat may be by way of impersonation with mischievous intent.

On the other hand, it is seen from the order dated 7-11-2014 that the First Appellate Authority did not allow one Sri Bikash Prasad to represent the petitioner Sri Kamalesh Kamat before the First Appellate Authority. It is, however, not mentioned in the order of the First Appellate Authority whether Sri Bikash Prasad was duly authorized by the petitioner as his representative.

In this connection, this Commission observes that while RTI Act, 2005 does not expressly provide for hearing the representative of the petitioner/ appellant, the RTI Act does not bar hearing of authorized representative of the petitioner by the appellant authorities. The Act is silent on this. It will, therefore, not be unreasonable to take the view that the appellant authority can hear an authorized representative of a petitioner/ appellant if the petitioner himself cannot appear for hearing due to any genuine reason.

The representative of the public authority also produced before this Commission today a photo copy of PAN Card of the petitioner Sri Kamalesh Kamat where the photograph of the card holder was shown as blank. Paragraph 10 of the order also mentions that one of the grounds for the petitioner's absence at the time of hearing was fear for his life. On an earlier 2nd appeal petition in case No. KP(M).33/2014 by the same petitioner, threat to his life was cited. As the reason for non-appearance at the time of hearing by Shri Kamalesh Kamat

The subject matter of the other second appeal petition was also relating to PDS materials.

From the nature of the informations sought for by the petitioner and his repeated absence at the time of hearing of his appeal petitions, it seems that he may be already having some information about the allotment and utilization etc. of PDS commodities, but which he is afraid to disclose. It is also noted that he is repeatedly showing threat to his

life as the reason for trying to hide his identity by not appearing before the First Appellate Authority or before this Commission.

This Commission also took note of the fact that mal practices in allotment as well as lifting and utilization of wheat in the State of Assam are reported in the media from time to time.

This Commission, therefore, gives Sri Kamales Kamat one more opportunity to appear before this Commission, in person, during office hours on any working day, between 1st July to 10th July, 2016 and make his submissions. If he needs any police protection for this, he may approach the concerned police authorities with a copy of this order.

**Sd/-
(H. S. Das)
Chief Information Commissioner, Assam
Panjabari, Guwahati**

**Authenticated true copy.
Sd/-
Registrar
Assam Information Commission**

Memo No.SIC/KP(M) 239/2014/46-A

Dated. 20-6-2016

Copy to:

1. Sri Gobinda Ch. Kalita, Superintendent –cum-SPIO of the Directorate of Food, Civil Supplies and Consumer Affairs, Bhangagarh, Guwahati-5 for information.
2. Sri Kamalesh Kamat , C/O Sri Vikash Prasad, Advocate, House No-39, Brindavan Path, Rupnagar, P.O –Indrapur, Guwahati-37 for information and necessary action as above.
3. Computer Section for uploading in the Website.
4. Office File.

**Registrar
Assam Information Commission**