



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

Case No. : SIC/MRN.25/2013
Appellant : Md. Kafil Uddin.
Respondent : The SPIO/Secretary, Gagalmari Samabai Samittee Ltd., Morigaon
Date of hearing : 28.06.2016
Appeal heard by : Shri Pinuel Basumatary,
State Information Commissioner, Assam

O R D E R
28.06.2016

The Appellant absent without information.

Sri Banamali Das, Inspector, FCS & CA Department is present on behalf of the First Appellate Authority/Assistant Director, FCS & CA Department, Morigaon. Md. Osman Ali, SPIO/Secretary, Gagalmari S.S. Ltd. is present along with a Written Statement dated 28.06.2016. A Written Statement dated 23.06.2016 received from the FAA.

Perused the W/S from the FAA. It has been submitted that although the SPIO of D.C.'s office is the SPIO for the Food, Civil Supplied and Consumer Affairs Department in the district, the instant RTI Application dated 13.08.2013 was received by the deemed SPIO/Assistant Director, FCS & CA, Morigaon who in turn had forwarded it to the Secretary, Gagalmari S.S. Ltd. for providing the information. On receipt of the First Appeal dated 12.09.2013, the SPIO/ADC, Morigaon issued a direction to the Secretary of the GPSS to provide the information. The then Secretary of the GPSS informed the Appellant through a letter dated 02.02.2014 that he was not in a position to provide the information as he had not received the relevant records from his predecessor when he took over charge in September, 2012 but that the information relating to subsequent period can be provided to him. It has been added that then Assistant Director, FCS & CA, Morigaon had called both the Appellant and the Secretary of the GPSS Ltd. and offered to the former the information that was available, but that the Appellant did not agree to receive the same.

Perused the W/S of the Secretary, Gagalmari GPSS Ltd. The position submitted by the Assistant Director, FCS & CA, Morigaon has largely been reproduced in this W/S. It has been submitted that he had not received the records relating to the information sought for by the Appellant when he took over charge in April, 2014. However, he had offered to provide the information that was available for the subsequent period, but the Appellant has not responded to that offer.

From the submissions, it appears that the official records of the GPSS pertaining to PDS had not been maintained and the incumbent Secretaries of the GPSS have not handed over official record/documents to their successors on their charge transfer. This is an administrative matter which requires attention of the controlling officer/authorities, namely, the FCS & CA Department in this case to the extent that PDS is involved. The First Appeal filed by the Appellant ought to have been disposed of by the appropriate First Appellate Authority/D.C., Morigaon. There have also been other procedural shortcomings in the way the case has been handled. Instead of forwarding the RTI Application, the Assistant Director, FCS & CA, Morigaon as deemed SPIO ought to have procured the information under Section 5 (4) of the RTI Act, 2005 and provide it to the Appellant.

Perused the case record. It is seen that the Commission had heard the Second Appeal on 10.01.2014 and issued an order for the Assistant Director, F.C. S. & C.A., Morigaon to furnish the information, within 15 days, submit a W/S on the case and explain as to why penalty should not be imposed on him for his failure to provide the information in time. The Assistant Director, F.C.S. & C.A., Morigaon has failed to report on the action taken by him in compliance with the said order of the Commission.

Considering the facts, the Commission hereby passes the following orders –

1. The SPIO, office of the D.C., Morigaon shall ascertain the facts of the case and procure if any information can be provided to the Appellant and furnish an explanation to the Appellant as regards the information which cannot be provided for want of records, within 15 days of receipt of this order;
2. The appropriate First Appellate Authority *i.e.* D.C., Morigaon shall consider and dispose of the First Appeal dated 12.09.2013, with a speaking order, within 21 days of receipt of this order; and
3. Further, as the issue of official records pertaining to PDSs not being available in the Gagalmari GPSS Ltd. has serious implications, the D.C., Morigaon should consider causing an enquiry with a view to fixing responsibility, and then, take corrective action to obviate such loss of official records in the future. He is also directed to issue necessary instruction to his official dealing with RTI matters to take timely action in accordance with the RTI Act, 2005.

With this, the Second Appeal Petition is disposed of.

Sd/-

Pinuel Basumatary
State Information Commissioner, Assam
Panjabari, Guwahati

Authenticated true copy.

Sd/-

Deputy Registrar
Assam Information Commission

Memo No. SIC/MRN.25/2013/ 37 -A

Dtd. 28.06.2016

Copy to:

1. The SPIO, office of the Deputy Commissioner, Morigaon, Dist- Morigaon, Assam for information and necessary action.
2. The Assistant Director, Food, Civil Supplies and Consumer Affairs Department, Morigaon, Dist- Morigaon, Assam for information.
3. The Secretary, Gagalmari Samabai Samittee Ltd., Morigaon, Dist- Morigaon, Assam for information.
4. The Deputy Commissioner, Morigaon, Dist- Morigaon, Assam for information and necessary action.
5. Md. Kafil Uddin, S/o- Sayad Ali, Vill- Merorhabhi, P.O.- Gagalmari, Dist- Morigaon, Assam for information.
6. Computer Section for uploading in the Website.
7. Office File.

Deputy Registrar
Assam Information Commission