



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

Case No. : SIC/CCR.60/2014
Appellant : Md. Selim Uddin Choudhury.
Respondent : The SPIO, O/o the Sub-Divisional Engineer, Kalain
Electrical Sub Division, APDCL, Kalain, Cachar
Date of hearing : 18.08.2016
Second Appeal heard by : Shri Pinuel Basumatary,
State Information Commissioner, Assam

O R D E R
18.08.2016

The Appellant present.

The SPIO absent without information. He has not submitted any Written Statement on the status of furnishing of information which was sought for by the Commission through its hearing notice dated 15.07.2016. He has also not explained as to why penalty shall not be imposed on him/her under Section 20 (1) of the RTI Act, 2005 for his/her failure to furnish the information to the Applicant within the stipulated period of 30 days.

The First Appellate Authority/Assistant General Manager, Silchar Electrical Division-II APDCL, CAZ, Silchar has not apprised the Commission about the steps he may have taken to dispose of the First Appeal dated 19.01.2014 which he was asked to do through its aforementioned hearing notice.

Heard the Appellant. He submitted that through a letter no. APDCL/CAR/SED-II/T-25/13-14/1142 dated 11.02.2014, the AGM, Silchar Electrical Division II had informed him that information relating to the first 4 (four) queries of his Application could not be provided, under Section 8 (1) (j) of the RTI Act, 2005, on the plea that the relevant matter was under reconsideration by higher authorities of APDCL. He was further informed that the information relating to query no. 5 and 6 could not be provided to him on the plea that he was not entitled to such information under Section 8 (1) (j) of the said Act.

Perused the case record. It is seen that the submission made by the Appellant is correctly based on the response given by the said officer of APDCL. In this connection, the Commission makes the following observations:

1. The Section of the Act cited by the Public Authority for not being able to provide the information is not appropriate. In other words, Section 8 (1) (j) of the Act does not govern furnishing of information on a matter under reconsideration by higher authorities. Likewise, this Section does not govern information relating to matters of commercial confidence.
2. Over 2 years and half have passed since the matter was stated to have been under reconsideration by higher authorities. The SPIO ought to provide the information as available on the matter now.

In view of the facts brought out above, the Commission hereby orders as follows;

1. The SPIO shall provide the Appellant, the information relating to query no. 1, 2, 3 and 4 of the RTI Application as available now, within a period of 10 days of receipt of this order;

2. The SPIO shall submit a written explanation to the Commission, within 15 days of receipt of this order, as to why penalty shall not be imposed on him/her under Section 20 (1) of the Act for his/her failure to furnish the information to the Applicant within the stipulated period of 30 days, and updated information as a follow up of the information furnished through the aforesaid letter dated 11.02.2014; and
3. The First Appellate Authority/Assistant General Manager, Silchar Electrical Division-II APDCL, CAZ, shall consider and dispose of the First Appeal dated 19.01.2014, with a speaking order, within a period of 21 days of receipt of this order.

As the Appellant has not indicted any public interest in relation to the information sought for through query no. 5 and 6 of his Application, it is held that the SPIO is not obliged to provide the same.

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

Authenticated true copy.

Sd/-
Registrar
Assam Information Commission

Memo No. SIC/CCR.60/2014/10 -A

Dtd. 18.08.2016

Copy to:

1. The SPIO, office of the Sub-Divisional Engineer, Kalain, Electrical Sub Division, APDCL, Kalain, Dist- Cachar, Assam information and necessary action.
2. The First Appellate Authority/Assistant General Manager, Silchar Electrical Division-II APDCL, CAZ, Silchar, Assam, Pin-788015 for information.
3. Md. Selim Uddin Choudhury, General Secretary, IBISBDOK, Vill-Karaikandi-II, P.O.- Rajartilla, Dist- Cachar, Assam, Pin- 788805 for information.
4. Computer Section for uploading in the Website.
5. Office File.

Registrar
Assam Information Commission