

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

Case No. : KP(M).361 /2016  
Complainant/ Appellant : Shri Monojit Singha  
Respondent : District Elementary Edn. Officer, Kamrup (M),  
Guwahati  
Date of hearing : 24.8.2016  
Complaint/ Second : Shri H. S. Das, IAS (Rtd)  
Appeal heard by : Chief Information Commissioner, Assam

**O R D E R**  
24.8.2016

1. The petitioner Shri Monojit Singha is present. The respondent is represented by Shri Pawan Kr. Agarwal. The second appeal petition dtd 3.6.16 is taken up for consideration in presence of both the parties.
2. From perusal of the case records it is seen that the petitioner filed an RTI petition dtd 22.1.16 before the PIO of the office of the Deputy Inspector of Schools, Chatribari, Guwahati, seeking various information about the Delhi Public School (DPS) situated at Betkuchi, Guwahati. Vide letter dtd 12.2.16 the D.I. of Schools, Guwahati transferred the RTI petition to the Principal of Delhi Public School, Guwahati requesting her to furnish the information directly to the petitioner. Vide letter dtd 17.2.16 the Principal of Delhi Public School, Guwahati informed the petitioner that the DPS is a private society registered under the Societies Registration Act 1860 and is not a public authority as per RTI Act, 2005 and the provisions of the said Act is not applicable to the school. Accordingly she informed the petitioner that she is not required to furnish any information to the petitioner under the RTI Act, 2005.
3. Thereafter the petitioner filed first appeal petition dtd 24.2.16 before the Director of Elementary Education, Assam, which was forwarded by the SPIO and Deputy Director of Elementary Education, Assam on 21.3.16 to the District Elementary Education Officer, Kamrup (M) requesting him to look into the appeal petition and furnish the required information within 20 days from the date of receipt of the first appeal petition. Getting no response from any quarter, even after the first appeal petition, the petitioner filed his second appeal petition dtd 3.6.16 before this Commission.
4. The petitioner referred to an order dated 16-2-2010 by the Central Information Commission directing Guru Hari Krishan Public School, Delhi, a non Government school, to provide complete information to the concerned information seeker under the RTI Act, 2005. The petitioner also referred to an order passed by Hon'ble Justice Rajiv Shakdher of Hon'ble Delhi High Court upholding with certain modification an interim order by the Court in a case where the above-mentioned order of the Central

Information Commission was challenged. The petitioner submitted that Hon'ble Justice Rajiv Shukdher passed the order in WP(C) No. 6088/2014 & CM Nos.-14799/2014, 14800/2014 and 1481/2014 in May, 2012.

He also referred to another order of Central Information Commission passed in June, 2014 requiring private schools, whether public authority or not, to provide certain category of information the information seekers under the RTI Act, 2005 by referring to the Delhi Education Act, 1973 and Right to Education Act, 2009.

5. The Principal of DPS sent a written statement dated 24-8-2016 stating, inter alia, that the DPS, Guwahati is not a public authority under the RTI Act, 2005 as it is a society registered under the Societies Registration Act and the school is not receiving financial aid from the Government. She also submitted that the school is neither established by or under the Constitution of India, nor is it a body or NGO controlled or financed by the Government. Her written submission is entered into the case records.

With her written statement the Principal of Delhi Public School, Guwahati enclosed copy of an order dated 13<sup>th</sup> August, 2010 passed by Hon'ble Gauhati High Court (Shillong Branch) in WP(C)332(SH) of 2008 quashing a Government of Meghalaya Notification dated 17-5-2007 to the extent that the said notification included the Raid Laban College, which is a private college in receipt of Govt. adhoc grants from time to time, as one of the public authorities.

6. In view of the above contradictory contention of the petitioner and the respondent, this Commission would first like to determine the following two issues :- (i) whether Delhi Public School, Betkuchi, Guwahati is a public authority u/s 2(h) of the RTI Act, 2005, and (ii) whether there is any law in force at present under which a public authority can have access to the information sought for by the petitioner making such information admissible information u/s 2(j) of the RTI Act, 2005.

7. Accordingly, this Commission passes the following directions:- (i) The SPIOs in the Departments of Secondary Education and elementary Education of Government of Assam shall furnish copies of laws, if any, presently in force in the State of Assam under which designated/competent officers can have access to any information of private school situated in the State within 20 days from the date of receipt of this order., (ii) The Principal of the DPS, Betkuchi, Guwahati shall furnish a copy of the Memorandum of Association of their registered society within 20 days from the date of receipt of this order, and (iii) the petitioner will also furnish copies of any judicial orders of Hon'ble Supreme Court, High Courts, Central Information commission, any State Information Commission or any statute of Government of India and Government of Assam under which DPS, Betkuchi, Guwahati is liable to furnish sought for information under the RTI Act, 2005

**Fix 11.30 AM on 26.9.2016 for the next date of hearing.**

Issue notices to SPIOs of the Secondary/Elementary Education Department, Govt. of Assam, Director of Secondary Education, Director of Elementary Education, Inspector of Schools, Kamrup (M), Guwahati, Principal Delhi Public School, Betkuchi, Guwahati or her authorized representative and the petitioner for appearance on the

next date of hearing. All of them are advised to come prepared with relevant documents in support of the contentions that they would like to make.

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

Authenticated true copy.

Sd/-  
Registrar  
Assam Information Commission

Memo No. SIC/KP(M).361 /2016/50-A

Dtd. 24.8.2016

Copy to:

- 1 The Director of Secondary Education, Assam, Kahilipara, Guwahati-19 for information and necessary action.
2. The Director of Elementary Education, Assam, Kahilipara, Guwahati- 19 for information and necessary action.
3. The Inspector of Schools, Kamrup ( M ), Guwahati for information and necessary action.
- 4.The Principal Delhi Public School, Betkuchi, Guwahati-35 for information and necessary action.
5. Shri Monojit Singha, Pandu, New Colony, Guwahati-12 for information & necessary action.
6. Computer Section for uploading in the Website.
7. Office File.
8. Order Book.

Registrar  
Assam Information Commission