

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

Case No. : SIC/UDR.07/2014
Appellant : Shri Pulak Das
Respondent : The SPIO, O/o the BDO, Rowta Dev. Block, Rowta, Distt-
Udalguri, BTAD, Assam

Date of hearing : 21.12.2016

Second Appeal heard by : Shri Pinuel Basumatary,
State Information Commissioner, Assam

O R D E R
21.12.2016

The SPIO is absent but the BDO has sent an apology through his letter dated 20.12.2016.

The Appellant, Shri Pulak Das is present.

Heard the Appellant. He submitted that the SPIO has not complied with the order of the Commission dated 02.11.2015.

Perused the case record. It is seen that the Appellant had filed his Second Appeal to the Commission dated 24.09.2014, after he failed to receive complete information sought through his RTI Application dated 05.06.2014. The Second Appeal was heard on 02.11.2015 by the Commission and an order issued. In the Hearing the SPIO was present along with three assistants. The SPIO had requested in his Written Statement for a month's time for furnishing the required information.

The Commission's order was that the Appellant would inform in writing the current SPIO by 05.11.2015 regarding the remaining part of the information and that the SPIO would furnish the information within 21 days of receipt of the order. Thus, the SPIO request for time was practically acceded to. On receipt of a Complaint of non-compliance from the Appellant through his written submission dated 09.12.2015, the Commission sought an Action Taken Report on the order of the Commission from the BDO of the said Dev. Block through its letter dated 21.09.2016. However, no ATR was received by the Commission from the said BDO. The Appellant submitted another Appeal dated 31.05.2016 in the Commission on non-compliance by the SPIO, whereupon the Commission sought an ATR again from the said BDO through a letter dated 19.09.2016. The SPIO and the BDO failed again to submit an ATR. Once again the Appellant submitted an Appeal before the Commission dated 28.10.2016 requesting for an order to the said SPIO to furnish the information which was yet wanting.

From the above, it is seen that today's hearing has been necessitated by the failure of the SPIO and the BDO of the said Dev. Block to comply with the orders of the Commission dated 02.11.2015, to furnish the information even after elapse of twelve months from the mandated date. They have repeatedly failed and showed indifference to the request from the Commission for ATR as mentioned above.

After careful consideration of the facts and circumstances of the Second Appeal and the response of the BDO and his SPIO to the instant RTI Application of the Appellant, the Commission determines that the SPIO and the BDO have failed to furnish the information sought for by the Appellant not only within the stipulated time of 30 days from the day of receipt of the RTI Application but also subsequently after the order of the First Appellate Authority/PD, DRDA, Udalguri dated 08.01.2015 and order by the Commission dated 02.11.2015. The Appellant's communication dated 06.11.2015 and letters from the Commission dated 29.01.2016 and 28.10.2016 seeking ATR on the Commission's order dated 02.11.2015. The Commission further concludes that there is a just and sufficient ground for the

Commission to (a) impose penalty on the SPIO as provided by the Section 20 of the RTI Act for each day of delay in furnishing the information, and (b) recommend disciplinary action against him under the service rules applicable to him.

As mentioned above, the SPIO has not availed of the opportunity of being present in today's hearing to represent his case. The BDO has sent an apology but has not apprised the Commission about the status of furnishing the information.

The Commission shall further, give one last opportunity to the SPIO to explain as to why this penal provision shall not be applied to him.

Furthermore, the Commission observes that the said BDO failed in his responsibility towards the RTI Applicant as the head of the Public Authority and controlling officer of the SPIO. He is hereby directed to fulfill his responsibility and performed his duty as the head of the Public Authority under the RTI Act, 2005 and ensure furnishing of the information requested for.

The Commission hereby further, orders that the SPIO shall comply with the aforementioned orders of the Commission dated 02.11.2015 immediately.

Fix next date of hearing in 6 weeks' time.

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

Sd/-
Dy. Registrar
Assam State Information Commission

Memo No. SIC/UDR.07/2014/

Dtd. 21.12.2016

Copy to:

1. The SPIO, O/o the BDO, Rowta Dev. Block, Rowta, Distt- Udalguri, BTAD, Assam, Pin-784 508 for information and necessary action.
2. The First Appellate Authority/BDO, Rowta Dev. Block, Rowta, Distt- Udalguri, BTAD, Assam, Pin-784 508, for information and necessary action.
3. The Appellant, Shri Pulak Das, Vill-Mazbat, Namati (Kha), PO-Mazbat, PS-Mazbat, Distt- Udalguri, BTAD (Assam), Pin-784 507 for information.
4. Computer Section for uploading in the Website.
5. Office File.

Dy. Registrar
Assam State Information Commission