

Case No. : KP(M).78/2017  
Complainant/ Appellant : Sri Khanin Deka  
Respondent : Election Department.  
Date of Hearing : 01-6-2017  
Complaint/ Second : Shri H. S. Das, IAS (Retd)  
appeal heard by : State Chief Information Commissioner, Assam

**O R D E R**  
**01-6-2017**

1. The petitioner/ appellant Sri Khanin Deka is present accompanied by Sri Utpal Kalita to assist him. The public authority is represented by:- (1) Sri Diganta Das, Deputy Secretary and SPIO of Election Department accompanied by Sri Dipjyoti Nath, Jr. Assistant of the Department to assist him.
2. The second appeal petition dated 21-4-2017 read with the RTI petition dated 8-8-2016 is taken up for hearing in presence of both the parties.
3. The SPIO and Deputy Secretary, Election Department has submitted a written statement dated 31<sup>st</sup> May, 2017 which is entered into the case records.
4. In his W/S he has narrated in detail the actions taken by the  
Department in connection with the petitioner's RTI petition dated 8-8-2016 and first appeal petition dated 7-11-2016. The written statement also refers to the order dated 6-12-2016 of the first appellate authority of the Election Department.
5. The petitioner submitted that he has meanwhile received replies to point No.-1 and 2 of his RTI petition dated 8-8-2016 to his satisfaction. So his present requirement is information relating to point No.-3 of his RTI petition which relates to allegations and complaints of ***"involvement in various political activities and wrongful activities to influence the voters in violation of Model Code of Conduct and MCI directions"*** against Sri Hiten Kalita, Asstt. Executive Engineer, PWD (R) Guwahati West Road Subdivision.
6. Vide letter dated 26-8-2016 the petitioner was also informed by the SPIO of the Election Department that this information cannot be furnished under Section 8(g) of the RTI Act, 2005 since disclosure of the identity of source of complaint may endanger the life or physical safety of the complainant. The First Appellate Authority in its order dated 6-12-2016 did not over-rule this stand taken by the SPIO.
7. The SPIO and Deputy Secretary present today produced before this Commission the relevant office file containing the complaint against Sri Hiten Kalita and submitted a copy of the complaint letter dated 15-3-2016 before this Commission, which has been entered into the case records. He orally submitted that on the eve of elections it is not possible to take action against such complaints after a proper inquiry as in normal times. The practice in the Election Department has been to refer it to the concerned administrative Department with necessary advise to take action. In case of

Sri Hiten Kalita also PWD Department was informed vide letter dated 16<sup>th</sup> March, 2016 of the complaints against Sri Hiten Kalita with a request to transfer him immediately.

8. This Commission notes that the complaint petition dated 15-3-2016 which is the main subject matter of the second appeal case contains allegations against Sri Hiten Kalita, Asstt. Executive Engineer, PWD (RoadS), Guwahati West Road Subdivision, who is a third party so far as the RTI petition dated 8-8-2016 filed by the petitioner Sri Khanin Deka is concerned.

9. This Commission, therefore, directs the SPIO of Election Department to take necessary action by following the procedure laid down under Section-11 of the RTI Act which relates to third party information. Further, even if the SPIO decides to disclose the sought for information in respect of point No. 3 of the RTI Act, in accordance with paragraph 11(3) he is directed to inform the petitioner about the specific complaints against Sri Hiten Kalita without disclosing the names of the complainant, candidates for election and the political parties involved. The SPIO is directed to take action as ordered above within thirty (30) days from the date of receipt of this order with a copy of the order to the Registry of this Commission.

10. With the above order the second appeal petition dated 21-4-2017 is disposed of.

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

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

**Memo No SIC/ KP(M).78/2017 / 128 -A**

**Dated 01-6-2017**

**Copy to:-**

- 1) Sri Diganta Das, Deputy Secretary and SPIO of Election Department for information and necessary action as ordered above.
- 2) Sri Khanin Deka , S/O Late Jogendra Nath Deka, G.S Road, 47 Sapta Swahid Path, P.O-Assam Sachivalaya,Guwahati- 781 006 for information.
- 3) Computer Section for uploading in the Website.
- 4) Office file.
- 5) Order Book.

**Registrar**  
**Assam Information Commission.**