

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

Case No. : SIC/NLB.58 /2017
Appellant : Md. Sabed Ali
Respondent : The SPIO, O/o the Asstt. Executive Engineer (PHE) Belsor
Sub-Division, Dist- Nalbari, Assam
Date of hearing : 26.04.2018
Second Appeal heard by : Shri Pinuel Basumatary, IA & AS (Retd.)
State Information Commissioner, Assam

O R D E R
26.04.2018

Shri Arjun Baishya, Junior Engineer (PHE) from Belsor PHE Division presented himself as being deputed by the First Appellate Authority/Executive Engineer of the Division without any letter of authorization. He submitted a Written Statement dated 25.04.2018 from the FAA.

The SPIO/AEE, (PHE), Belsor Sub-Division absent without information.

The Appellant absent without information.

Perused the Written Statement. It has been submitted that the information sought for had not been furnished to date by the site incharges of those Gaon Panchayat and the NGO entrusted with IHHL under SBM (G) Schemes, and that they had been engaged in NRC duty. It has been requested to extend time for submission of information till NRC duty is completed.

Heard the depute of the FAA. He submitted that the records pertaining to Swach Bharat Mission (G) were maintained by the Member Secretary, DWSC-cum-EE (PHE) Nalbari Division and therefore the information sought for was to be provided by that Public Authority and not Belsor PHE Division. This arrangement has not been mentioned by the EE (PHE), Belsor.

Perused the Case record. It is seen that the Second Appeal was heard in the Commission and an order issued on 03.03.2018. In that hearing, the Appellant was present whereas the Respondent was absent without information. Earlier the hearing scheduled on 08.12.2017 could not be heard in the absence of the SPIO despite the presence of the Appellant. The SPIO had not submitted any Written Statement and also had not explained as to why penalty U/S 20 (1) of the RTI Act, 2005 should not be imposed on him for his failure to furnish the information within the time stipulated. Considering the absence of the SPIO, the hearing was adjourned, and rescheduled on 02.02.2018. Invoking the provisions of Section 18 (3) of the RTI Act, 2005 regarding the powers of the Civil Court while trying a suit under the code of Civil Procedure 1908 to summon and enforce the attendance of the respondents and compel them to give oral or written evidence on oath and to produce documents, the notice dated 28.12.2017 was served through the Superintendent of Police, Nalbari District. The Commission received a copy of the letter dated 11.01.2018 from the SP, Nalbari written to Officer I/C, Belsor Police Station to the serve notice to the SPIO. The hearing was re-scheduled to be held on 03.03.2018. Considering that there was some disruption in the postal services, the office of the Commission had informed by telephone both the SPIO and the Appellant about the hearing. That notwithstanding, the SPIO remained absent.

In view of the ongoing reported dislocation in the postal services, the Commission had decided to adjourn the hearing until today. The Commission had further ordered that the SPIO, office of the AEE, PHE Belsor Sub Division should be present personally in today's hearing to apprise the Commission and to explain as to why penalty U/S 20 (1) of the RTI Act, 2005 should not be imposed on him for his failure to furnish the information within the time stipulated. The SPIO was required to submit a Written Statement detailing *inter alia* the name(s) of the SPIO(s) of the Public Authority since the date of receipt of the RTI Application dated 29.06.2017 and submit his/their period of incumbency.

Perusal of the case record further indicates that the Appellant had submitted along with his Second Appeal a copy of the letter dated 11.08.2017 wherein the EE (PHE) Nalbari Division had written as Member Secretary, DWSC to AEE, PHE Belsor Sub-division as Member Secretary, APWSCEC requesting him to furnish the information to the Appellant directly. The Commission had also received a copy of the letter dated 12.01.2018 written by the EE of Belsor Division (PHE) in the capacity of the FAA directing the AEE, PHE Belsor Sub-Division to furnish the information to the Appellant which direction was given after receiving the Commission's notice for hearing scheduled on 02.02.2018.

The Commission observes that the issue as to who is the appropriate FAA in the instant case between the EE (PHE), Nalbari Division and the EE (PHE), Belsor, needs to be clarified by the two Executive Engineers.

From the facts and circumstances brought out above, the Commission further observes that the SPIO/AEE, PHE, Belsor Sub-Division has utterly failed not only to provide the information to the information seeker within the time stipulated by the said Act but also to comply with the notices and the order of the Commission to be present in the hearings of the Second Appeal.

The Commission therefore hereby orders that the Second Appeal would be heard again on 28.05.2018 at 1:30 PM in which the EE (PHE), Nalbari Division, EE (PHE), Belsor Division and the AEE (PHE), Belsor Sub-Division as also the SPIO of the Sub-Division if he is other than the AEE, shall be present personally and apprise the Commission about the responsibility to provide the information, and action taken to provide the information, provide the name(s) of the SPIO(s) with their incumbency periods since the receipt of the RTI Applications and explain as to why the information had not been furnished so far, and why the notices and order of the Commission had not been complied with. Further, the SPIO/AEE shall explain as to why penalty U/S 20 (1) of the RTI Act, 2005 should not be imposed on him for his failure to furnish the information within the time stipulated.

Sd/-

Pinuel Basumatary IA & AS (Retd.)
State Information Commissioner, Assam
Panjabari, Guwahati

Authenticated true copy

Sd/-
Joint Registrar
Assam Information Commission

Copy to

1. The SPIO, O/o the Asstt. Executive Engineer (PHE) Belsor Sub-Division, Dist- Nalbari, Assam, Pin- 781 304 for information and necessary action.
2. The First Appellate Authority/Executive Engineer (PHE) Nalbari Division, Dist- Nalbari, Assam, Pin- 781 335 for information and necessary action.
3. The First Appellate Authority/Executive Engineer (PHE) Belsor Division, Belsor, Dist- Nalbari, Assam for information and necessary action.
4. The Appellant, Md. Sabed Ali, S/o- Lt. Kalimuddin, Vill- Sabhamari, PO- Bartala, Dist- Nalbari, Assam, Pin- 781 138 for information.
5. Computer Section for uploading in the Website.
6. Office File.

Joint Registrar
Assam Information Commission