

Case No.	KP(M). 1272/2017
Complainant/ Appellant	Sri Dulal Bora
Respondent	Chief Minister's Sectt.
Date of Hearing	20.07.2018
Complaint/ Second appeal heard by	Shri H. S. Das, IAS (Retd) State Chief Information Commissioner, Assam

O R D E R
20.07.2018

1. The petitioner Sri Dulal Bora is present. The public authorities are represented by :- (i) Smti Nivedita Laskar, ACS, SPIO and Joint Secretary, Higher Education Department, (ii) Sri Naren Ch. Basumatary, SPIO and Joint Secretary, Home and Political Department, (iii) Sri Prasanta Pratim Kathkotia, SPIO and Additional Deputy Commissioner, Kamrup (Metro), (iv) Sri Niranjana Bora, Under Secretary and SPIO of the office of Chief Minister, Assam, (v) Smti Dipika Choudhury, SPIO and Deputy Director, Secondary Education Department, Kahilipara, Guwahati-19, (vi) Sri Padma Kt. Sarma, SPIO, Secondary Education Department, (vii) Smti Chinmoyee Talukdar, SPIO and Deputy Director, Higher Education Department, (viii) Sri Mohan Ch. Deka, Sr. Assistant, Office of the Director of Secondary Education, Assam, (ix) Sri Rajendra Thakuria, Sr. Assistant and (x) Sri Prabal Jyoti Medhi, Sr. Assistant, Chief Minister's Secretariat. (xi) Debojyoti Bhattacharjee, Jr. Assistant of the office of Secondary Education Department.

2. The second appeal petition dated 27-6-2017 read with the RTI petition dated 20-8-2016 is taken up for further consideration in pursuance of this Commission's earlier order dated 1-6-2018.

3. Written submissions have been received from :-

- (a) *Additional Deputy Commissioner, Kamrup (Metro) dated 20-7-2018*
- (b) *Deputy Director and SPIO of Secondary Education dated 20-7-2018*
- (c) *Deputy Director and SPIO of Directorate of Higher Education dated 16-7-2018*
- (d) *SPIO and Joint Secretary, Home and Political Department dated 20-7-2018.*
- (e) *SPIO and Joint Secretary, Higher Education Department, dated 29-6-2018*
- (f) *SPIO and Under Secretary, Secondary Education Department at 13-7-2018*

4. The Additional Deputy Commissioner, Kamrup (Metro) stated in his W/S that the proprietor of Career Point was called for discussion on 6-7-2018 in presence of the Inspector of Police, Kamrup (Metro). The proprietor of Career Point (KOTA) submitted a

statement that theirs is a private limited Company registered under the Companies' Act, 1956 and hence cannot be deemed to be a public authority under Section 2(h) of the RTI Act, 2005.

5. From the W/S and enclosed papers submitted by the SPIO of Secondary Education Directorate, it is seen that the Director of Secondary Education took a hearing on 25-1-2016 where the petitioner Sri Dulal Bora was also present. One representative from Concept Educations was also present. In this hearing also Concept Educations took the same stand that theirs is a Private Limited Company under the Companies Act, 1956 and that it is neither a school nor a Jr. College. The objective of the Company is to give coaching to willing candidates who wish to explore the expertise of the Company's programmes. After the hearing, the Director of Secondary Education asked the representative of Concept Education to submit their (a) Refund Rules, (b) the authorities from which they have obtained permissions, and (c) their fee structure for various types of coaching. Apparently M/S Concept Education did not furnish the sought for information to the Director of Secondary Education and stated that M/S Concept Education does not come under the jurisdiction of the office of the Director of Secondary Education.

6. The SPIO of the Directorate of Higher Education in her W/S stated that since the education imparted by Concept Education is pre-College, therefore, it does not come under the purview of the Directorate of Higher Education.

7. The SPIO of Home and Political Department stated in his W/S that the RTI petition was transferred to the SPIO of the office of Director General of Police, Assam, vide letter dated 27-11-2017 followed by reminder, pursuant to this Commission's order dated 1-6-2018.

8. From the above, it appears that coaching institutes like Concept Education, Carreer Point, Akash Institutes etc. do not fall within the regulatory jurisdictions of the Directorate of Higher Education or the Directorate of Secondary Education, Govt. of Assam. It also appears that at present there is no legal framework to regulate the activities of such private training Institutes. While it is imperative that reputed coaching institutes set up their facilities in Assam to prepare the students of the State for competitive entrance examinations for admission to IITs, IIMs National Law Schools, Engineering Colleges as well as for various other competitive examinations like Union Civil Services, State Civil Services etc., it is, perhaps, also necessary that there should be some mechanism to protect the interests of the students and their parents / guardians, who may charge exorbitant fees without imparting quality coaching. One forum for redressal of grievances of the students and parents in this regard may be the District Central Consumer Protection Council or the State Consumer Protection Council or appropriate Consumer Redressal Agencies.

9. However, when this Commission wanted to know on what basis such private training Institutes are functioning in the State, the SPIO of the Directorate of Secondary Education submitted orally that M/S Concept Education is functioning at Guwahati on the strength of a Trading License issued by Guwahati Municipal Corporation (GMC). Before this Commission passes any substantive order on the second appeal petition dated 27-6-2017 it would like to know what are the goods and services Guwahati Municipal Corporation has allowed M/S Concept Education to dispense with by granting Trading License.

10. This Commission, therefore, in exercise of powers under Section-19(8)(a) the SPIO of Gauhati Municipal Corporation as a deemed PIO under Section 5(5) of the RTI Act, 2005 and directs him to appear on the next date of hearing with all relevant documents including Concept Education, application for Trading License and copy of the Trading License granted to them by the GMC.

11. As already recorded M/S Concept Education did not furnish the sought for informations to the Director of Secondary Education on the ground that it being a registered Company under the Company's Act, 1956 it cannot be deemed to be a public authority under Section 2(h) of the RTI Act, 2005. In this context this Commission would look to the last two lines of Section 2(f) of the RTI Act, 2005 and see if information relating to the private body called M/S Concept Education can be accessed by any public authority under any other law for the time being in force.

12. Fix 21st August, 2018 at 12.30 P.M for next hearing.

13. *Issue notices to the petitioner and SPIO's of (i) Secondary Education Department, (ii) Director of Secondary Education (iii) Guwahati Municipal Corporation and (iv) the SPIO of the office of Director General of Police to remain present on the next date of hearing with all relevant records /documents.*

Sd/-

(H. S. Das)
State Chief Information Commissioner,
Assam

Authenticated true copy

Sd/-

Registrar I/c
Assam Information Commission

Copy to:-.

- 1) SPIO and Under Secretary to the Government of Assam, Secondary Education Department, Dispur , Guwahati-6 for information and necessary action as ordered above.
- 2) SPIO of the Office of Commissioner of Guwahati Municipal Corporation, Panbazar, Guwahati-1 for information and necessary action as ordered above.
- 3) SPIO of the Office of Director General of Police, Ulubari , Guwahati-7 for information and necessary action as ordered above.
- 4) SPIO of the Directorate of Higher Education, Assam , Kahilipara, Guwahati-19 for information and necessary action
- 5) Sri Niranjan Bora, Under Secretary and SPIO, Chief Minister's Secretariat, Dispur, Guwahati-6 for information.
- 6) SPIO of the office of Director of Secondary Education, , Kahilipara, Guwahati-19 for information and necessary action.
- 7) Sri Dulal Bora, Koinadhara Tiniali, House No. -118, Khanapara, Guwahati-22 for information and necessary action as ordered above.
- 8) Computer Section for uploading in the Website
- 9) Office file.
- 10) Order Book.

Registrar I/c
Assam Information Commission.