



OFFICE OF THE

ASSAM INFORMATION COMMISSION

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| Case No. | DHR.194/2017 |
| Complainant/ Appellant | Smti Monika Debnath |
| Respondent | Sub Divisional Judicial Magistrate, Hojai |
| Date of Hearing | 02.07.2018 |
| Complaint/ Second appeal heard by | Shri H. S. Das, IAS (Retd) State Chief Information Commissioner, Assam |

O R D E R
02.07.2018

1. . The petitioner Smti Monika Debnath is absent without any information. The public authority is represented by (i) Sri Madan Upadhaya, Sheristadar on behalf of the First Appellate Authority as authorized by the District and Sessions' Judge-cum-First Appellate Authority, Nagaon, (ii) Sri Gunendra Kr. Das, Supervisory Assistant In the office of the First Appellate Authority and District and Sessions Judge, Nagaon, vide letter dated 30th June, 2018 and (iii) Sri Julkarnain Ahmed, Jr. Asstt., in the office of SDJM Court as authorized by the APIO of the office of SDJM (Munsiff) vide letter dated 29th June, 2018.

2. The second appeal petition dated 18-10-2017 is taken up for hearing ex-parte in the absence of the petitioner.

3. The District and Sessions Judge-cum-First Appellate Authority, Nagaon, Assam has sent a written submission dated 30-6-2018 which is entered into the case records.

4. The APIO of the office of SDJM, (Munsiff), Sankardev Nagar, Hojai, Assam has also submitted a written submission dated 30-6-2018. That also has been entered into the case records.

5. From the written statement of Learned District and Sessions Judge –cum-First Appellate Authority it appears that he could not hear the first appeal petition as it was not placed before him by the office. It has also been mentioned in the W/S that the concerned employee had lost the closed envelope containing the appeal memo for which the aforesaid memo could not be registered till date.

6. However, from the W/S of the APIO of the office of SDJM (Munsiff) , Sankardev Nagar, Hojai, Assam, and from perusal of the reply dated 16-8-2017 furnished by him to the petitioner, it appears that the informations sought for by the petitioner vide her RTI petition dated 7-8-2017 are to be obtained by following the procedure and paying the required fees, as prescribed in (a) Gauhati High Court Rules, 2007, (b) Gauhati High Court , Civil and Criminal Rules, 2012 read with the Gauhati High Court RTI Rules published by Notification dated 23-5-2018. According to the said rules certified true copies of the sought for documents and informations can be furnished only after payment of prescribed Court fee by the applicant. Vide letter dated 16-8-2017 the APIO of the office of Munsiff, Sankardev Nagar, Hojai informed the petitioner that after submission of the required Court fee the certified true copies of the documents will be prepared by the copyist and that the applicants copy petition was pending for submission of the required Court fee. It has also been mentioned in the APIO's W/S that the applicant had already applied for the certified copies of the said documents in respect of G.R case No. 158/08 vide her application dated 17-7-2017.

7. From this it appears that the applicant is aware of the correct procedure to be followed in this matter and what she has to do is to pay the requisite Court fee and obtain the certified copies, as sought for by her.

8. From the above, it appears that the second appeal petition dated 18-10-2017 was filed by the petitioner frivolously at a time when this application dated 17-7-2017 was already pending before the SDJM (Munsiff), Sankardev Nagar, Hojai due to non-submission of the required Court fee.

9. It is also noted that the APIO of the office of SDJM have provided the necessary advice to the petitioner vide letter dated 16-8-2017 well within 30 days from the date of the RTI petition dated 7-8-2017.

10. Under the above facts and circumstances of the case, the second appeal petition dated 18-10-2017 is dismissed with a direction to the appellant to refrain from filing such frivolous second appeal petitions in future.

Sd/-

(H. S. Das)

**State Chief Information Commissioner,
Assam**

Authenticated true copy

Sd/-

**Registrar I/c
Assam Information Commission**

Copy to:-

- 1) The District and Sessions' Judge-cum- First Appellate Authority, Sankardev Nagar, Hojai, for information.
- 2) The SPIO of the office of Sub Divisional Judicial Magistrate (Munsiff) , Sankardev Nagar, Hojai for information.
- 3) Smti Monika Debnath, C/O Sri Dhananjoy Debnath, Niz Dabaka, , Hojai, Assam for information
- 4) Computer Section for uploading in the Website
- 5) Office file.
- 6) Order Book.

**Registrar I/c
Assam Information Commission.**