

**OFFICE OF THE
ASSAM INFORMATION COMMISSION**

JONAKKEE COMPLEX, SHILPGRAM ROAD, PANJABARI, GUWAHATI- 781037

Phone : (0361) 2332704, 2337900, 2331193 :: Fax : 2332704 :: email : secretary.sicassam@gmail.com

Case No. : SIC/NLB.32 /2017
Complainant : Md. Zakir Hussain
Respondent : The SPIO, O/o the Secretary, Bhangnamari Gaon Panchayat,
Dist- Nalbari, Assam

Date of hearing : 05.09.2018
Complaint heard by : Sri Pinuel Basumatary, IA & AS (Retd.)
State Information Commissioner, Assam

O R D E R

05.09.2018

The Appellant/Complainant, Md. Zakir Hussain is present.

The SPIO/Secretary, Bhangnamari Gaon Panchyat is absent once again without information.

Perused the case record. The Second Appeal dated 17.06.2017 was heard and an order issued on 04.09.2017. In the said hearing the Appellant was present and Sri Prabir Barua, Extension Officer(P), Barkhetri Development Block represented the First Appellate Authority/Block Dev. Officer, Barkhetri Dev. Block was present. The SPIO/Secretary of the GP was absent without information. However, considering the fact that the RTI Application had been pending far beyond the stipulated time for providing information, the Commission had decided to go ahead with the hearing proceedings *ex parte* of the SPIO. It was ordered that the Secretary, Bhangnamari GP should furnish the information to the Appellant within 10 days of receipt of the order, free of cost and/or allow the Appellant to inspect records in the office during office hours, should the records be voluminous.

Through a letter dated 16.11.2017 the Appellant submitted a Complaint of non-compliance. The Commission sought an Action Taken Report from the SPIO through a letter dated 18.11.2017. However, the Commission did not receive any Action Taken Report. The Complaint was heard on 30.07.2018 after issuing notices to the parties duly. In the hearing, the GP Secretary was absent once again without information. The Appellant/Complainant was present. He submitted that he had not received any response from the SPIO and no opportunity to inspect the records in the office was given him.

Considering the facts of the case, and the lack of response of the SPIO/GP Secretary to the Commission's notices for the hearings both on 04.09.2017 and 30.07.2018, and the non-compliance with the Commission's order dated 04.09.2017 and non-submission of ATR, the Commission was constrained to fix today's hearing. Further, considering that the SPIO/Secretary, Bhangnamari GP had failed to respond to the Commission's notices, his absence from hearings, non-compliance with the Commission's orders and non-submission of any Written Statement on the case, or Action Taken Report, the Commission had ordered that the notice be served through the BDO, Barkhetri Dev. Block, that BDO should have the notice delivered to the said GP Secretary and ensure that he either comply with the order of the Commission dated 04.09.2017 fully or be present in today's hearing along with all relevant records. Accordingly, a copy of the order was sent to the BDO, Barkhetri Dev. Block with a request to serve the same and submit a report before the date of hearing. The Commission has not received the report of service from the BDO. It could not therefore be determined whether the BDO had served notice or whether he has ensured as the Controlling Officer, compliance of the Commission's order by the GP Secretary.

Heard the Appellant. He submitted that he has not received any communication from the GP Secretary in compliance of the Commission's orders. He added that he had learnt that the GP Secretary had received the Commission's notice for today's hearing.

It is evident from the facts brought out above that the GP Secretary as the SPIO of the Public Authority has failed to provide information sought for by the Appellant through his RTI Application dated 20.03.2017 not only within the stipulated time of 30 days but also subsequently despite the orders of this Commission after hearing the Second Appeal on 04.09.2017 and 30.07.2018. He has neglected not only to be present in the hearings but also submit Written Statements before the Commission as called for through the hearing notice no. SIC/NLB.32/2017/7 dated 31.07.2017, and to submit an Action Taken Report sought by the Commission through letter no. SIC/NLB.32/2017/11 dated 18.11.2017. He did not submit an explanation 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 which was sought through the Commission's hearing notice dated 31.01.2017. As the GP Secretary has continued to avoid taking action in this regard and has continued to ignore the process under the said Act, the Commission considers it a fit case for imposing the maximum amount of penalty on Sri Haladhar Haloi, Secretary, Bhangnamari Gaon Panchayat provided for by the Act U/S 20(1).

However, the Commission hereby decided to afford another opportunity to the said GP Secretary to be heard in person by fixing another hearing on 14.11.2018 at 12:15 PM. Should Sri Haladhar Haloi decide to forgo this opportunity of being heard by absenting himself for the hearing on that day, the Commission shall be constrained to pass an *ex parte* order to impose the said penalty under the Act. Further, the Commission hereby orders that Sri Haladhar Haloi, Secretary, Bhangnamari GP, shall furnish the information sought for by the Appellant in compliance of the Commission's aforementioned orders without further delay. Furthermore, he is directed to apprise the Commission if anyone other than him has officially been designated and notified by any competent authority as SPIO in the office of the said GP.

Sd/-

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

Authenticated true copy

Sd/-
Joint Registrar
Assam Information Commission

Memo No. SIC/NLB.32 /2017

Dtd.05.09.2018

Copy to:

1. The Block Dev. Officer, Barkhetri Dev. Block, Narayanpur, Mukalmua, Dist- Nalbari, Assam, Pin- 781 126 for information and necessary action with a request to serve the notice enclosed herewith as per order above and submit serving report before next date.
2. The SPIO/ Secretary, Bhangnamari Gaon Panchayat, Dist- Nalbari, Assam, Pin- 781 312 for information and necessary action.
3. The First Appellate Authority/Block Dev. Officer, Barkhetri Dev. Block, Narayanpur, Mukalmua, Dist- Nalbari, Assam, Pin- 781 126 for information.
4. The Appellant, Md. Zakir Hussain, C/o- Sorhab Ali, Vill & PO- Kalarchar, PS- Bhangnamari, Dist- Nalbari, Assam, Pin- 781 312 for information.
5. Computer Section for uploading in the Website.
6. Office File.

Joint Registrar
Assam Information Commission