



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

Case No. : NGN.361/2018
Complainant/ Appellant : Shri Hareshwar Borah
Respondent : SPIO of the office of the Deputy Commissioner, Nagaon
Date of hearing : 5.10.2018
Complaint/ Second : Shri H. S. Das, IAS (Rtd)
Appeal heard by : Chief Information Commissioner, Assam

O R D E R

5.10.18

1. The petitioner/appellant Shri Hareshwar Borah is present. The public authority is represented by Smti. Sushama Hazarika, Addl. Deputy Commissioner and SPIO of the office of the Deputy Commissioner, Nagaon. The second appeal petition dated 5.9.2018 is taken up for hearing in presence of both the parties.

2. The SPIO and Addl. Deputy Commissioner, Nagaon submitted a copy of her letter dated 3.10.2018 addressed to the Addl. Deputy Commission (Land Acquisition), Nagaon requesting him to accompany her along with all relevant documents at the time of hearing the second appeal case No. SIC/NGN/361/2018. The ADC (LA), Nagaon was absent at the time of hearing. The ADC and SPIO, Nagaon Deputy Commissioner's office and the first appellate authority and Deputy Commissioner, Nagaon have submitted two separate written statements, both dated 3rd October, 2018 with enclosures. Both the Ws are entered into the case records. It is seen from their written submissions that the Deputy Commissioner, Nagaon, in his capacity as first appellate authority, heard the first appeal petition dated 2.7.2018 on 10.8.2018 where the appellant Shri Hareshwar Borah and the ADC(LA), Nagaon as well as the SPIO of the Deputy Commissioner's office were present. After hearing, the first appellate authority directed the ADC(LA), Nagaon to provide the required informations as available to the petitioner within two days from the date of receipt of his order.

3. From perusal of the petitioner's RTI petition dated 31.5.2018 it is seen that the petitioner sought the following two informations with reference to LA Case No. 37/2013 :-

- (i) Proof of service of notices u/s 21 of RFCTLARR Act, 2013 on Shri Hareshwar Borah and Smti. Madhumita Borah, and
- (ii) Proof of service copies of the award in LA case No. 37/2013 on Shri Hareshwar Borah and Smti. Madhumita Borah.

This Commission is of the view that the informations sought for are of facts and office records. But the ADC(LA), Nagaon has failed to furnish the information to the petitioner. If the notices u/s 21 of the Act mentioned above and copy of the award in LA Case No. 37/2013 were not served on Shri Hareshwar Borah and Smti. Madhumita Borah, then the petitioner should have been informed accordingly. On the other hand, if they were served, the sought for informations should have been furnished to the petitioner within the time stipulated u/s 7(1) of the RTI Act, 2005. It appears that the Addl. Deputy Commissioner (LA), Nagaon has failed to comply with the relevant provisions of the RTI Act even after clear direction from the Deputy Commissioner, Nagaon as the first appellate authority vide order dated 10.8.2018. This appears to be case of not only of violation of provision of RTI Act, 2005 but also non-compliance with the order of first appellate authority.

4. Since the sought for informations are held by the ADC (LA), Nagaon and since his assistance was sought for by the SPIO, Deputy Commissioner's office Nagaon, he is also deemed to be a PIO u/s 5(5) of the RTI Act, 2005 and is directed to :-

- (i) Furnish the sought for information as mentioned at para 3 above to the petitioner on or before 12th October, 2018 and report compliance, and
- (ii) Show cause within 15 days from the date of receipt of this order as to why penal action u/s 20 of the Act, 2005 shall not be imposed on him for dereliction of statutory duty under the RTI Act, 2005.

Fix 12.30 PM on 8.11.2018 for review of compliance and action taken.

Sd/-

(H. S. Das)
Chief Information Commissioner, Assam
Panjabari, Guwahati

Authenticated true copy.

Sd/-

Registrar i/c
Assam Information Commission

Memo No. SIC/NGN. 361/2018/

Dated. 5.10.2018

Copy to:

1. The Addl. Deputy Commissioner & SPIO of the office of the Deputy Commissioner, Nagaon for information and necessary action.
2. The Addl. Deputy Commissioner (Land Acquisition), Nagaon for information and necessary action.
3. Shri Harashwar Borah, Laokhowa Road, Near Sitala Mandir, North Haibor Gaon, Nagaon, Assam, PIN- 782002 for information.
4. Computer Section for uploading in the Website.
- 5 Office File.
6. Order Book.

Registrar i/c
Assam Information Commission