



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

Case No. : NGN.362 /2018
Complainant/ appellant : Shri Hareswar Borah
Respondent : SPIO of the office of the Deputy Commissioner, Nagaon
Date of hearing : 08.11.2018
Complaint/ Second : Shri H.S. Das, IAS (Retd)
Appeal heard by : Chief Information Commissioner, Assam

O R D E R
8.11.2018

1. The petitioner and appellant Shri Hareswar Borah is present. The public authority, i.e. the Deputy Commissioner, Nagaon is represented by Shri Dulal Debnath, ACS, Addl. Deputy Commission (Land Acquisition Branch), Nagaon. The second appeal petition dated 5.9.2018 is taken up for hearing in presence of both the parties in pursuance of this Commission's order dated 5.10.2018. In the meantime the ADC (LA Branch), Nagaon submitted a prayer dated 8.10.2018 for taking time to make a submission till 8.11.2018, the date which was already fixed for next hearing and his prayer was granted.

2. Today the ADC (LA Branch) has submitted a detailed written submission dated 7.11.2018 detailing sequence of actions taken on the petitioner's RTI petition dated 31.5.2018 and first appeal petition dated 2.7.2018. His written submission is entered into the case records. It has been mentioned in the written statement, inter alia, that the sought for informations have not been furnished to the petitioner so far because there is a court case pending on the same matter in the court of Hon'ble District Judge cum Land Acquisition, Rehabilitation and re-settlement Authority, Nagaon, which was registered as Ref (LA Case No. 1/2018) in connection with Deputy Commissioner's office LA Case No. 37/2013. It has been mentioned in the WS that the sought for informations were not furnished as exempted information u/s 8(1)(a), 8(1)(e), 8(1)(g), 8(1)(i), and 8(1)(j) of the RTI Act, 2005 This Commission is of the view that the exemption clauses u/s 8(1)(a), 8(1)(e), 8(1)(g), 8(1)(i), and 8(1)(j) of the RTI Act, 2005 are not applicable in the instant case. It is also seen from the case records that vide his order dated 10.8.2018, the Deputy Commissioner, Nagaon in his capacity as first appellate authority had already directed the concerned SPIO to furnish the sought for informations to the petitioner within two days. Therefore, it is not understood why the Addl. Deputy Commissioner (LA Branch), Nagaon raising objections as mentioned in his WS dated 7.11.2018. Exemption clauses u/s 8(1)(h), 8 (1)(i) and 8(1)(j) are not at all applicable in the instant case. Section 8(1)(e) relating to fiducial relationship also does not seem to be applicable in the instant case. So, only section 8(1)(a), i.e. economic interest of the State remains to be considered. Here also the Commission is of the view that being not satisfied with the LA award compensation already paid to him, he has

approached the court of Hon'ble Judge cum Land Acquisition, Rehabilitation and re-settlement Authority of Nagaon, Assam. Now it is evident that the Appellant and the concerned Land Acquisition Authority, i.e. the Deputy Commission, Nagaon to make their arguments and counter-arguments before the Hon'ble Court and it is for the Hon'ble Court to redress the grievances, if any, of the appellant so far as the LA compensation claim is concerned. Therefore, exemption clause u/s 8(1)(a) of the RTI Act, 2005 also does not appear to be applicable in the instant second appeal case. Copies of the file note sheets and documents in file No. LAG.20/2012 of LA Case No. 37/2013 is, therefore, admissible under the RTI Act, 2005 subject to the provision of section 7(9) of the same Act.

3. The Addl. Deputy Commissioner (LA Branch), Nagaon is, therefore, directed to allow the petitioner to inspect the above mentioned file during office hours on any working day after giving two days' notice before his inspection of records and also allow the petitioner to take notes and photocopies of file note sheets and other relevant documents sought for by him free of cost upto 50 copies and thereafter on payment of Rs.2.00 for every additional page of photocopy within 15 days from the date of this order which was pronounced in presence of both the parties.

4. As regards the notice asking the ADC (LA Branch), Nagaon to show cause as to why penalty u/s 20 of the RTI Act, 2005 should not be imposed on him, the ADC (LA Branch) has submitted a reply dated 7.11.2018 giving more or less the same justifications as given in WS also dated 7.11.2018 referred to above. His reply to the show cause notice is entered into the case records. His prayer for non-imposition of penalty is granted with direction that such delay by taking resort to non-applicable exemption clauses should be avoided in future.

5. With the above order, the second appeal petition dated 5.9.2018 is disposed of.

Sd/-

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

Authenticated true copy.

Sd/-

Joint Registrar
Assam Information Commission

Memo No. SIC/ NGN.362/2018/

Dtd. 08.11.2018

Copy to: 1. The Addl Deputy Commissioner & SPIO of the office of the Deputy Commissioner, Nagaon, Assam for information and necessary action.
2. Shri Hareswar Borah, Laokhowa Road, Near Sitala Mandir, North Haiborgaon, Nagaon, Assam, PIN-782002 for information
3. Computer Section for uploading in the Website.
4. Office File.
5. Order Book

Joint Registrar
Assam Information Commission