



**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 Commissioner (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 seeking time to make his 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 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)(h), 8(1)(i), and 8(1)(j) of the RTI Act, 2005.

3. (a) This Commission is of the view that exemption clauses u/s 8(1)(g), 8(1)(h), 8 (1)(i) and 8(1)(j) are not applicable in the instant case. Section 8(1)(e) relating to fiduciary relationship also does not seem to be applicable in the instant second appeal case. So, only economic interest of the State, mentioned in section 8(1)(a), 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, the appellant has approached the court of Hon'ble District Judge cum Land Acquisition, Rehabilitation and Re-settlement Authority of Nagaon, Assam. It transpired in course of hearing the instant second appeal case that the acquired land was originally government land, which was settled with the present appellant in the year 2003 at highly concessional rate of premium so as to facilitate starting of some plantation works and related industries by the present

appellant, who was the beneficiary of the settled land. In other words, the Government sacrificed substantial amount of revenue, in the larger public interest of promoting industrialization and employment generation, etc. while making the settlement. The same plot of land has now been acquired by the State Government for which the appellant has already been paid compensation amounting to several times the amount of premium paid by him at the time of settlement. The appellant now is reportedly asking for even more compensation. **It, therefore, appears that with acquisition of the land in question by the State Government for the CRPF the original purpose of promoting industrialization and employment generation, for which the land was settled with the present appellant at highly concessional rate, is being abandoned. Whether these facts will have any bearing on the amount of compensation is for the Hon'ble Court to decide.**

(b) This Commission is, however, of the view that the above mentioned facts and circumstances of the acquisition of the land in question cannot be valid reasons for denial or withholding of the sought for informations. The issue of determination of the fair and reasonable amount of compensation under the relevant LA Act rests with the Hon'ble Court before whom the Appellant and the concerned Land Acquisition Authority, i.e. the Deputy Commissioner, Nagaon, may make their respective arguments and counter-arguments. Exemption clause u/s 8(1)(a) of the RTI Act, 2005 also does not, therefore, 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, found to be admissible under the RTI Act, 2005 subject to the provision of section 7(9) of the same Act.

(c) It is also seen from the case records that vide his order dated 10.8.2018, the Deputy Commissioner, Nagaon in his capacity as the 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 raised objections as mentioned in his WS dated 7.11.2018.

4. 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 receiving two days' notice from the appellant 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 pages and thereafter on payment of Rs.2.00 for every additional page of photocopy within 15 days from the date of receipt of this order which was pronounced in presence of both the parties.

5. 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 recourse to non-applicable exemption clauses should be avoided in future.

6. 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/-

Registrar i/c
Assam Information Commission

Memo No. SIC/ NGN.362/2018/

Dtd. 14.11.2018

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

Registrar i/c
Assam Information Commission