



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

Case No. : DBR. 6/2018
Complainant/ appellant : Shri Promud Kumar Baruah
Respondent : SPIO of Assam State Housing Board
Date of hearing : 14.12.2018
Complaint/ Second : Shri H.S. Das, IAS (Retd)
Appeal heard by : Chief Information Commissioner, Assam

O R D E R
14.12.2018

1. The petitioner Shri Promud Kr. Baruah is present accompanied by Shri R.N. Borpujari to assist him. The public authority, i.e. the Assam State Housing Board (ASHB) is represented by:- (1) Shri S.K. Khobung, Addl. Chief Housing Officer and SPIO and (2) Shri D. Das, Zonal Housing Officer. The non-compliance petition dated 12.8.18 is taken up for consideration in pursuance of this Commission's earlier order dated 12.6.18 in presence of both the parties.
2. The representative of the petitioner Shri R.N. Borpujari submitted orally that the petitioner himself is short of hearing and therefore, he is speaking on behalf of the petitioner. Shri Borpujari submitted that in compliance of the Commission's earlier order dated 12.6.2018 the petitioner went for inspection of records to ASHB alone on 26.6.18. According to Shri Borpujari the petitioner was told that he can inspect the records but cannot take photocopies of the sought for records due to official secrecy. Therefore, the petitioner came back without inspecting the records.
3. The Addl. Chief Housing Officer and SPIO Shri S.K. Khobung of ASHB submitted that Shri P.C. Kalita, Cashier of the ASHB, informed him in writing that on grounds of official secrecy, photocopies of the sought for documents cannot be furnished even though this Commission might have passed orders to that effect. Thereafter the office staffs were busy with Panchayat elections and NRC works. However, all the sought for documents were sent to the petitioner by post on 11.12.2018. Photocopy of the same has been placed before this commission. The petitioner's representative submitted that they are yet to receive the documents enclosed with ASHB's letter dated 11.12.2018.
4. From the above, it appears that although the ASHB refused to furnish the photocopies of the sought for records on grounds of secrecy, now on the eve of today's hearing they have furnished the same to the petitioner vide letter dated 11.12.2018. So the question arises, what happened to their plea of closely guarded official secrecy. In this connection, this Commission would like to refer to section 22 of the RTI Act, 2005, which clearly mentions that the provisions of this Act shall have effect notwithstanding anything inconsistent, therewith contained in the Official Secrecy Act, 1923...This commission takes serious note of the shifting stand of the ASHB to delay or deny furnishing of the sought for informations to the petitioner.

5. In view of the facts and circumstances stated above, the following orders are passed:-

- (i) The Addl. Chief House Officer of ASHB is directed to furnish the copy of the documents which were forwarded with their letter dated 11.12.2018 to the petitioner today immediately.

This is without prejudice to the petitioner's right to inspect the records and obtain photocopies thereof, if he is not satisfied with the informations furnished with the forwarding letter dated 11.12.2018.

- (ii) If the petitioner find inspection of records necessary, the SPIO of ASHB will allow him to do so within 16 days, i.e. on or before 31st December, 2018, during office hours on any working day and allow him to take notes and photocopies thereof free of cost upto 100 pages and thereafter on payment of Rs. 2.00 for every additional page of photocopy.
- (iii) It appears that the sought for informations and the relevant records and documents are being held by Shri P.C. Kalita, i/c of Cash Branch of the ASHB. Thus, because of his non-cooperative attitude, and, in spite of this Commission's order dated 12.6.2018, the matter has not yet been sorted out. Since the sought for informations are held by him, he is also treated as State Public Information Officer of ASHB u/s 5 (5) of the RTI Act, 2005 and he is directed to submit his written explanation on or before 31st December, 2018 as to why penalty u/s 20 of the RTI Act, 2005 shall not be imposed on him for non-compliance of this Commission's order dated 12.6.2018.
- (iv) The petitioner is directed to report to the Registrar of this Commission the outcome of his inspection of records as ordered above.

Fix 1.00 Pm 07.01.2019 for review of compliance of the above order.

Sd/-

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

Authenticated true copy.

Sd/-
Joint Registrar
Assam Information Commission

Memo No. SIC/ DBR.6/2018/

Dated. 14.12.2018

Copy to: 1. The Addl. Chief Housing Officer and SPIO of Assam State Housing Board, R.G. Baruah Road, Guwahati-5 for information and necessary action.
2. Shri P.C. Kalita, i/c Cash Branch, Assam Housing Board, R.G. Baruah Road, Guwahati-5 for information and necessary action.
3. Shri Promud Kr. Baruah, C/o- Mrs. Anjali Baruah, Qrt. No. 6, K.V. Teachers colony, Duiliajan, Dibrugarh, Assam, PIN-786602 for information.
4. Computer Section for uploading in the Website.
5. Office File.
6. Order Book

Joint Registrar
Assam Information Commission