



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

Case No. : KP(M).543/2018
Complainant/ appellant : Shri Dulal Bora
Respondent : SPIO of Political Department, Govt. of Assam
Date of hearing : 12.12.2018
Complaint/ Second : Shri H.S. Das, IAS (Retd)
Appeal heard by : Chief Information Commissioner, Assam

O R D E R

12.12.2018

1. The petitioner Shri Dulal Bora is absent. He has requested the Registry of this Commission telephonically for deferment of the date of hearing. The SPIO and Joint Secretary of Political Department, Shri Biman Dutta is present. He has submitted a written statement dated 10th December, 2018 enclosing a copy of letter No. PLA(V) 349/2018/33 dated 06.12.2018 from the Addl. Secretary, Political (V) Department, Govt. of Assam, wherein it is mentioned that- **the concerned file is not available in the department and therefore, it is not possible to furnish any reply at the present moment. In view of this the SPIO of Political Department has prayed for some more time for furnishing the required information.**

2. In this connection, this Commission would like to refer to section 7(1) of the RTI Act, 2005, which stipulates that the concerned PIO has no option but to either provide the sought for information or reject the request for information on any of the grounds specified under section 8 and 9 of the RTI Act, 2005. The 30 days time period specified therein is already over. **The plea of non-availability of the file without mentioning the present location of the file is not an acceptable ground for delay in furnishing the sought for information.**

3. From the written statement submitted by the SPIO of Political Department it appears that the Addl. Secretary, Political (V) Department is the holder of the relevant information. Therefore, u/s 5(5) of the RTI Act, 2005 he is also deemed to be a PIO for the purpose of the instant second appeal petition dated 14.5.2018. In this connection, relevant portions of paragraphs 10.(b) and 10©(i) of this Commission's earlier order dated 8.10.2018 in second appeal case no. 949/2017 are reproduced below for ready reference:-

“10.(b) The Chief Secretary to the Govt. of Assam is directed to cause an inquiry into the matter of non-availability of the relevant file for nearly two years so that necessary corrective measures can be taken for future guidance.

(c) Commissioner and Secretary, Personnel and Administrative Reforms Department is directed to -

(i) evolve a suitable mechanism to monitor the movement and disposal of files at all stages in all Departments so that no file is left un-attended to beyond a reasonable time period.”

4. The SPIO and the deemed PIO are, therefore, directed to retrieve the file immediately and furnish the information sought for to the petitioner on or before 31st December, 2018.

5. Fix 1.30 PM on 10.01.2019 for review of compliance.

Sd/-

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

Authenticated true copy.

Sd/-

Joint Registrar
Assam Information Commission

Memo No. SIC/ KP(M).543/2018/

Dtd. 12.12.2018

Copy to: 1. The SPIO of Political Department, Govt. of Assam, Dispur, Guwahati-6 for information and necessary action.
2. the Addl. Secretary, Political (Vigilance) Department, Govt. of Assam, Dispur, Guwahati-6 for information and necessary action.
3. Shri Dulal Bora, Kainadharatiniali, House No. 118, Khanapara, Guwahati-22 for information.
4. Computer Section for uploading in the Website.
5. Office File.
6. Order Book

Joint Registrar
Assam Information Commission