

**OFFICE OF THE
ASSAM INFORMATION COMMISSION**

JONAKEE COMPLEX, SHILPGRAM ROAD, PANJABARI, GUWAHATI- 781037

Phone : (0361) 2332704, 2337900, 2331193 :: Fax : 2332704 :: email : secretary.sicassam@gmail.com

Case No. : KP(M).509/2014
Complainant/ Appellant : Mr. Jyotish Kr. Das,
Respondent : Assam Cricket Association.
Date of Hearing : 28-11-2016
Complaint/ Second : Shri H. S. Das, IAS (Retd)
appeal heard by : State Chief Information Commissioner, Assam

O R D E R

The petitioner Sri Jyotish Kr. Das is present. The different public authorities are represented by:- (1) Sri Manik Ch. Borah, SPIO and Under Secretary, Sports Youth Welfare Department, Dispur, Guwahati-6 (2) Sri Ranjan Chakravarty, Deputy Secretary, Finance (EC_II) Department, Dispur, Guwahati-6 (3) Sri Ananda Kr. Das, ACS, Deputy Secretary, Revenue & Disaster Management Department, Dispur, Guwahati -6, (4) Smti Pallabi Rabha, Joint Director, DCP Division, P&D Department, Dispur, Guwahati-6 (5) Smti Panchami Duarah, Research Officer, DCP Division, P&D Department and (6) Sri Robin Baruah, Advocate, for Assam Cricket Association.

The complaint petition dated 2-8-2014, which was already converted into a 2nd appeal petition vide order dated 12-7-2016 is taken up for further hearing in pursuance of this Commission's earlier order dated 12-7-2016, 17-8-2016 and 20-9-2016.

The Advocate for Assam Cricket Association has filed his written arguments raised dated 28-11-2016 which is entered into the case records. In his written argument he has raised mainly two points :-

1. That the 2nd appeal petition dated 2-8-2014 filed by the petitioner is barred by limitation, as it was filed more than a year after the Hony. Secretary of Assam Cricket Association replied on 5-6-2013 to the RTI petition dated 23-5-2013.
2. That the Assam Cricket Association is a Registered Society under the Registration of Societies Act, 1860 and that it is not a public authority within the meaning of the Right to Information Act, 2005. In support of his argument he has submitted a copy of Hon'ble Supreme Court's order dated 18th July, 2016 referring specifically to para-81 and 82 of the order.

The Under Secretary to the Govt. of Assam, Sports and Youth Welfare Department also submitted a written statement dated 28-10-2016 stating that the

Sports and Youth Welfare Department as well as the Directorate of Sports and Youth Welfare Department have not given any financial assistance or Grants in Aid to Assam Cricket Association during the period 2001 to 2014.

The SPIO and Deputy Secretary to the Govt. of Assam, Revenue and Disaster Management Department has also submitted their written statement dated 25-11-2016. The gist of their submission is that Revenue Department, Govt. of Assam reserved a plot of land measuring 59B-3K-2L in favour of Assam Cricket Association at village-Barshapara within Guwahati city. The present value of the land as per the approved zonal regulation is approximately Rs. 15 lakhs per katha.

The Joint Director and PIO of P&D Department has made a separate written submission dated 22nd October, 2016, which is also entered into the case records. It appears from the written statement of P&D Department that the Assam Cricket Association was given a financial assistance of Rs. 1 crore during the year 2005-2006 and another amount of Rs. 50 lakhs in the year 2007-2008 for development of cricket stadium at Barshapara, Guwahati. Although not mentioned in the written statement, the Joint Director of DCP Department, P&D orally stated that the amount was sanctioned as Grants-in-Aid from untied fund scheme in favour of Assam Cricket Association.

The PIO and Joint Director of P&D also mentioned about financial assistance given to other sports associations in different places of Assam during the period 2001-2014, which does not appear to be relevant to the instant RTI case.

The SPIO and Deputy Secretary, Govt. of Assam, Finance (EC-II) Department submitted a written submission dated 28th November, 2016 which is also entered into the case records. The main point in his written submission is that the Sports & Youth Welfare Department and Sports Associations like Assam Cricket Association is Dealt with by EC-III department and not by Finance EC-II department. He is, therefore, hereby exempted from further appearance before this Commission in the instant case.

The Additional Commissioner of Taxes and SPIO of the office of Commissioner of Taxes also sent a written submission dated 9th September, 2016 enclosing copies of Govt. Notifications dated 2nd November, 2007 and 14th March, 2002 recording State Govt's refusal to give tax exemptions to ACA for hosting international cricket matches Coming back to the contention of the Advocate Sri R. Baruah, representing the Assam Cricket Association that :- (i) the petitioner's second appeal petition dated 2-8-2014 is time barred, as it was filed after expiry of more than one year from the date of furnishing of reply by the Hony Secretary of ACA, (ii) that the petitioner has not made any prayer for condonation of the delay, and (iii) that he has filed appeal petition before this Commission without first filing of first appeal petition under Section-19 (1) of the RTI Act, his appeal petition dated 2-8-2014 should not be entertained. A copy of the written arguments of Advocate Sri R. Baruah was also given to the appellant. The

appellant stated that he remembers to have filed first appeal petition before the ACA twice. However, he could not produce any records to substantiate his oral submissions.

When asked by this Commission, the petitioner reiterated that he is still interested in getting the information that was sought for vide his RTI petition dated 23-5-2013 from ACA. However, in view of the technical and procedural flaws in the 2nd appeal as pointed out by Sri R. Baruah, Advocate, on behalf of the Assam Cricket Association, this Commission could not proceed further with the instant 2nd appeal petition.

This Commission, therefore, disposes of the appeal petition dated 2-8-2014 on the grounds of the above mentioned technical and procedural flaws, without going into the substantive issues whether Assam Cricket Association is a public authority within the meaning of Section 2(h) of the RTI Act, 2005, and if so, whether the informations sought for by the petitioner are admissible under the provisions of the said Act. The petitioner will however, be at liberty to file fresh RTI petition, if he so desires, before the Assam Cricket Association.

Sd/-
(H. S. Das)
State Chief Information Commissioner,
Assam

Authenticated true copy
Sd/-
Registrar
Assam Information Commission.

Memo No SIC/ KP(M).509/2014/

Dated 28-11-2016

Copy to:

1. (1) Sri Manik Ch. Borah, SPIO and Under Secretary, Sports and Youth Welfare Department, Dispur, Guwahati-6 for information.
- (2) Sri Ranjan Chakravarty, Deputy Secretary, Finance (EC_II) Department, Dispur, Guwahati-6 for information.
- (3) Sri Ananda Kr. Das, ACS, Deputy Secretary, Revenue & Disaster Management Department, Dispur, Guwahati -6, for information.
- (4) Smti Pallabi Rabha, Joint Director, DCP Division, P&D Department, Dispur, Guwahati-6 for information.
- (5) Smti Panchami Duarah, Research Officer, DCP Division, P&D Department, Dispur, Guwahati-6 for information.
- (6) Hony. Secretary, Assam Cricket Association, Barshapara, Guwahati for information.
- (7) Sri Robin Baruah, Advocate, for Assam Cricket Association, Gauhati High Court, Guwahati for information.
- (8) Sri Jyotish Kr. Das, C/O Mr. Nakul Ch. Das. PHE Complex, Hengrabari, Qr. No. 216, Guwahati-36 for information.
- (9) Computer Section for uploading in the Website.
- (10) Office file.
- (11) Order Book.

Registrar
Assam Information Commission.