



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

Case No. : **KP(M). 361/2016**
Complainant/ appellant : **Sri Monojit Singh**
Respondent : **DEEO, Kamrup**
Date of hearing : **26-9-2016**
Date of order : **04-10-2016** :
Complaint/ Second : **Shri H. S. DAS, IAS(Retd)**
appeal heard by : **State Chief Information Commissioner, Assam**

O R D E R

1. The petitioner Sri Monojit Singh is absent without any information. The public authority is represented by :- (1) Sri S. G. Kalita, Jt. Secretary and SPIO Secondary Education Department, Dispur, Guwahati-6, (2) Sri A. K. Bhattacharyya, Jt. Secretary and SPIO, Elementary Education Department, (3) Sri Nitul Barman, Sr. Administrative Assistant, Assam Secretariat, Dispur, Department of Elementary Education., (4) Dr. Bhupen Talukdar, AES, SPIO & Joint Director of Secondary Education, Assam, Kahilipara, Guwahati, (5) Smti Rumi Choudhury, SPIO & Deputy Director, Elementary Education, Office of the Director, Elementary Education, Assam, Kahilipara, and (7) Sri Samiran Pancharan, Planning Assistant, Directorate of Elementary Education, Kahilipara.

Respondent No.6, i.e., Delhi Public School, Betkuchi, Guwahati is represented by Sri Pawan Kr. Agarwal,

2. The second appeal petition dated 3-6-2016 is taken up for further hearing ex-parte in the absence of the petitioner, in pursuance of this Commission's earlier order dated 24-8-2016.
3. In compliance with this Commission's earlier order dated 24-8-2016, the following written statements have been received :-
 - i) No. DPSG/Gen/16-17/Admn:269 dated 16-9-2016, from Smti Chandralekha Rawatt, Principal, DPS, Guwahati with which was attached a copy of Certificate of Registration of the Society named Gyan Sarovar Foundation, who established and is running the DPS Public School, Betkuchi. one copy each of the Memorandum of Association and Rules and Regulations of the Society were also enclosed,
 - ii) No. DSE/RTI/Hear/19/2016/8 dated 18-9-2016 from Sri Babulal Sarma, Director of Secondary Education, Assam,
 - iii). No. ASE.364/2012/65 dated 26-9-2016 from SPIO & Joint Secretary to the Govt. of Assam, Secondary Education Department, enclosing one copy each of "The Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006" and The Assam Non-Government Educational Institutions (Regulation and Management) Rules, 2007.
 - iv) No. AEE(RTI).11/2016/214 dated 23-9-2016 from the SPIO and Joint Secretary, Govt. of Assam, , Elementary Education Department, stating that Elementary Education Department has not designated any office who can have access to any information pertaining to private schools situated in Assam and that the Department is considering to designate one such officer in terms of this Commission's order dated 24-8-2016 in the instant case.

v) The representative of DPS submitted an extract of Central Information Commission's order dated 1st February, 2010 in a complaint case No. CIC/SG/C/2009/001671 with Mr. Vikram Kakkar as complainant and Secretary, DPSS, New Delhi, as respondent, declaring that DPSS, Delhi is not a public authority as defined under Section 2(h) of the RTI Act, 2005.

4. After perusal of the written submission of the Principal of DPS, Betkuchi, Guwahati and the attached Memorandum of Association and Rules and Regulations of Gyan Sarovar Foundation, this Commission is of the opinion that the above mentioned Society and DPS, Guwahati are private institutions and are not public authorities as defined under Section 2(h) of the RTI Act, 2005. The Director, Secondary Education also stated so in his written statement mentioned above.

5. The Director, of Secondary Education, has, however, mentioned in his written statement that "The school runs on the fees paid by the parents, it is not entirely their own investment. Fund comes from the fees deposited by the parents. Hence 'Public Money' is involved; the School authority cannot deny it. For the sake of transparency and to prove that the school is run and fund is maintained with full transparency, the school, instead of withholding of information, should have merrily provided information".

6. He further mentioned that a PIL No. 139/15 and another case bearing No. 2806/12 filed by DPS, Numaligarh are subjudice with Hon'ble Gauhati High Court. The Director, Secondary Education has also referred to Section 10(xvii) of The Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006 which binds Non-Government Educational Institutions to furnish such reports and information, as may be required by the Director (Secondary Education etc.) from time to time and comply with such instructions of the Director, as may be issued to secure the continued fulfillment of the conditions of recognition or the removal of deficiencies in the working of the Institutions. Section 10(xviii) of the Act further provides that all records of such private Educational Institutions shall be open to inspection by any officer authorized by the State Government or the Director, as the case may be, at any time and that the Institution shall furnish such information, as may be necessary to enable the State Government or the Director, as the case may be, to discharge their duties and functions in accordance with the provisions of the Act and the Rules made thereunder, or any other law for the time being in force. The Director, Secondary Education also mentioned in his W/S that such Institutions have expressed reluctance to provide information on fee structures, and other records called by the Directorate in the past. He has also mentioned in the W/S that Govt. of Assam is considering amendment of the existing Act to plug its loopholes and make the Act more effective.

7. The representative of DPS, Guwahati submitted that a wide range of informations relating to the functioning and management of the school is already available in their website "www.dpsguwahati.in"

8. From the above discussions it is seen that there is an existing Act of Assam Government called "The Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006", Section 10 (xvii) which makes it a statutory obligation of such Non-Government Educational Institutions falling within the purview of the Act to furnish such reports and information as may be required by the Director from time to time and comply with such instructions of the Director as may be issued to secure the continued fulfillment of the condition of recognition or the removal of deficiencies in the working of the Institutions.

9. Section 10(xviii) of the said Act further stipulates that all records of such non-government educational institutions shall be open to inspection by any officer authorized by the State Government or the Director, as the case may be at any time and that the Institution shall furnish such information, as may be necessary to enable the State Government or the Director, as the case may be, to discharge their duties and functions in accordance with the provisions of the Act and the Rules made thereunder, or any other law for the time being in force.

10. **In view of the above provisions of law, this Commission comes to the conclusion that the Delhi Public School is a private institution and it cannot be deemed to be a public authority as defined under Section 2(h) of the RTI Act, 2005.**

However, Section 2(f) of the RTI Act, 2005 stipulates that :-“*Information*” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts reports, papers, samples, models, data material held in any electronic form **and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.**”

11. This Commission, therefore, orders that in exercise of powers conferred under Sections 10 (xvii) and 10 (xviii) of The Assam Non Government Educational Institutions (Regulation and Management) Act, 2006 , read with Section 2(f) of the RTI Act, 2005 , **the concerned Directors of Education, Assam can access informations from any non-government educational institution coming within the ambit of The Assam Non-Government Educational Institution (Regulation and Management) Act, 2006 and falling within their respective jurisdictions, and to that extent such non-government private educational institutions also come within the purview of the RTI Act, 2005.**

12. This Commission, therefore, directs the petitioner to first visit the website of DPS, Guwahati, as mentioned at paragraph 7 above. For informations which are not available in the website, he may approach the Director, Secondary Education within 15 days from the date of receipt of this order and the Director, Secondary Education is directed to take action to furnish the admissible information to the petitioner in exercise of his powers under Section 10(xvii) and 10(xviii) of The Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006 within 45 days from the date of receipt of this order.

With the above order, the second appeal petition dated 3-6-2016 is disposed of.

Sd/-

(H.S.Das)

**Chief Information Commissioner, Assam
Panjabari, Guwahati**

Authenticated true copy.

Sd/-

Registrar

Assam Information Commission

Memo No.SIC/KP(M) 361/2016/

Dated.04-10-2016

Copy to:

1. Sri S. G. Kalita, Jt. Secretary and SPIO Secondary Education Department, Dispur, Guwahati-6, for information.
2. Sri A. K. Bhattacharyya, Jt. Secretary and SPIO , Elementary Education Department,for information
3. Dr. Bhupen Talukdar, AES, SPIO & Joint Director of Secondary Education, Assam, Kahilipara, Guwahati for information and necessary action, as ordered above.
4. Sri Monojit Singh, Pandu, New Colony, Guwahati -781022 for Information and necessary action , as ordered above.
5. Sri Pawan Kr. Agarwal, Delhi Public School, National Highway-37, Opp. Tirupati Balaji Temple, Bhabanand, Ahom Gaon, Guwahati- 781035 for information.
6. DIPR, Last Gate, Dispur, Guwahati-6 for information and necessary action.
7. Computer Section for uploading in the Website.
8. Office File.
9. Order Book

Registrar

Assam Information Commission