



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

Case No.	KP(M)735/ 2019
Complainant/ Appellant	Sri Nandan Lal Choudhury.
Respondent	: SPIO of Health & FW (A) Deptt., Assam.
Date of hearing	16.08.2019
Complaint/ Second	: Shri H. S. Das, IAS (Retd)
Appeal heard by	Chief Information Commissioner, Assam

**O R D E R**

16.08.2019

1. The present appellant Sri Nandan Lal Choudhury, Manager Safety of the Down Town Hospital Ltd., Guwahati is absent without any information. The public authority, i.e., the Health & FW (A) Department is present as represented by Sri Pradip Kumar Sarma, SPIO and Under Secretary, accompanied by Smti. Shobhna Gogoi, Sr. AA. The instant 2<sup>nd</sup> appeal petition dated 5.3.2019 filed by Sri Nandan Lal Choudhury representing the Down Town Hospital Ltd. is taken up for consideration ex parte in the absence of the appellant.
2. From the case records it is seen that vide an RTI application dated 14.8.2018 the RTI applicant Sri Mridul Kumar Borah sought some informations from the SPIO of Health & FW (A) Department regarding employment details of Dr. (Mrs) Bibha Mahanta, wife of Dr. Pranjal Mahanta, employed in Down Town Hospital Ltd., G.S. Road, Dispur, Guwahati. The SPIO and Deputy Secretary of Health & FW Deptt. transferred the RTI application to the Joint Director of Health Services, Kamrup (M), Uzan Bazar, Jahajghat, Guwahati vide letter dated 7.9.2018. The Joint Director of Health Services, Kamrup (M) vide letter dated 15.10.2018 informed the RTI applicant that the informations sought for by him come under Section 11 of the RTI Act, 2005 because Dr. (Mrs) Bibha Mahanta was considered as a third party, and that disclosure of the sought for information required consent of the third party. Since Dr. (Mrs) Mahanta did not give consent for disclosure of the information as sought for by the petitioner, the same could not be furnished.
3. Being aggrieved by the response of the Joint Director, the RTI applicant filed the first appeal petition dated 14.11.2018 before the Joint Secretary and the First Appellate Authority of Health & FW Deptt. The FAA by an order dated 18.1.2019 gave the view that the Down Town Hospital authority can also be considered to be a public authority for the purpose of the RTI Act, 2005 and that there should not be any bar in furnishing of the information regarding the name of the doctor employed by the Hospital. Therefore, the Joint Director of Health Services, Kamrup (M) was directed to furnish the information sought for by the appellant within a week from the date of receipt of the order after obtaining the same from the Down Town Hospital authorities.

4. After perusal of the instant second appeal petition dated 5.3.2019 filed by Sri Nandan Lal Choudhury, representing Down Town Hospital Ltd., this Commission is of the view that - the Down Town Hospital Ltd. being a private entity, cannot be deemed to be a public authority under the meaning of Section 2(h) of the RTI Act, 2005. However, this Commission would like to make a reference to Section 2(f) of the Act which defines "information", inter alia, also as "an information relating to any private body which can be accessed ,by a public authority under any other law for the time being in force". The SPIO of Health &FW Deptt. is, therefore, directed to ascertain the list or particulars of informations that can be accessed by Health &FW Deptt., or the Director, Joint Director of Health Services, or any other functionaries from the Down Town Hospital in exercise of powers under any other law for the time being in force and take steps for furnishing such admissible informations to the petitioner within 30 days from the date of receipt of this order which was pronounced in presence of the SPIO. The order dated 18.1.2019 passed by the FAA stands partially set aside accordingly.

5. Fix 18.9.2019 at 12.30 P.M. for review of action taken.

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

Authenticated true copy.


  
Registrar i/c  
Assam Information Commission

Memo No. SIC/ KP(M) 735/2019

Dated 16.08.2019

Copy to:

1. The SPIO of Health & FW Department, Govt. of Assam, Janata Bhawan, Dispur, Guwahati 6 for information. and necessary action.
2. Director of Health Services, Hengrabari, Guwahati for information and necessary action.
3. Joint Director of Health Services, Kamrup (M), Uzar Bazar, Jahajghat, Guwahati 1 for information and necessary action.
4. Sri Mridul Kumar Borah, Advocate, Flat No.A/6-017, Shantigram Housing Housing Complex, Tripura Road, near NERIM, Jayanagar, Khanapara, Guwahati 22.
5. Sri Nandan Lal Choudhury, Manager Safety, Down Town Hospital Ltd., G.S.Road, Guwahati 6.
6. Computer Section for uploading in the Website.
7. Office File.
8. Order Book.

  
Registrar i/c  
Assam Information Commission