



**OFFICE OF THE  
ASSAM INFORMATION COMMISSION  
JONAKKEE COMPLEX, PANJABARI, GUWAHATI-781037**

Case No : SIC/KP(M)152/2018  
Complainant/ Appellant : Sri Bhagawati Prasad Siotia.  
Respondent : The SPIO, Office of the G.M.C., Panbazar, Guwahati-1  
Date of hearing : 10.7.2019  
Complaint/ Second : Nilufer Alam Hazarika, IAS (Retd.)  
Appeal heard by : State Information Commissioner, Assam  
Date of order : 27.7.2019

**O R D E R**  
27.7.2019

The SPIO and Joint Commissioner has submitted a reply to the show cause notice issued on 10.6.2019 as to why penalty under section 20(1) of the RTI Act, 2005 shall not imposed on the SPIO for non furnishing of information within specific time and giving incorrect, incomplete and misleading information. He has submitted that the allegation made against the SPIO, Guwahati Municipal Corporation are not correct and has furnished explanation as follows:-

A. That the date on note sheet no. 7 & 8 has been tampered. The SPIO has accepted that the date in the note sheet no 7 & 8 was inserted, later on when it came to the notice of Zonal Engineer that the date was not affixed earlier with the signature. As the date was missed out inadvertently earlier the same was affixed. But the content of the note sheet remained the same,

B. That the information provided are incomplete and misleading

1. The allegation that certified copies of file note sheets and all other sought for since 28.5.2014 till the date of petition dated 24.8.2017 was not furnished.

The SPIO clarified that the copies of note sheets were provided on 28.5.2018. However, regarding all other papers' the petitioner has not specified the documents and hence the allegation is motivated baseless.

2. Regarding the allegation that a copy of the map mentioned in showing the encroachment of area measuring 0.37 ares from common passage and an area measuring an area 0.20 ares from the plot of Mrs. Rajni Siotia and Mrs. Rahul Siotia mentioned in LRI report dated 5.8.2016 and letter no. GMC/RTI/FAA/22/2016/9708 dated 01.11.2016.

The SPIO submitted that two maps were submitted by LRI. One original map with measurement taken at the site and another map prepared by LRI without measurement. None of the maps has tags like 0.37 ares and 0.20 ares. Therefore, the original map with measurement was provided to the petitioner on 28.5.2018 and as such the allegation that incomplete information was provided is baseless.

3. Allegation whether any action has been taken for occupation of the illegally constructed building without having any occupation certificate from GMC and to furnish details of action taken report.

The SPIO stated that information was provided to the petitioner on 28.5.2018 that the process for refusal for granting occupancy certificate was in process. The rejection of occupancy certificate by the then Associate Planner GMC is of temporary nature as party has option to correct the irregularity. In the instant case the matter of encroachment or deviations has not attained finality and therefore under process. Permanent rejections are done by the Commissioner with a speaking order and followed by action under section 337(3) and 337(A)(1) of the GMC Act, 1971. Therefore, the then SPIO rightly informed that the rejection for occupancy is under process.

4. Whether any action has been taken for deviation of the building in contravention of the NOC granted by the GMC and details of action taken.
5. Whether any action has been taken for demolition of the building for getting the NOC by suppressing documents and mis-representing the fact perpetrating fraud of GMC in respect of the land on which the building has been constructed and
6. Whether any action has been taken for cancellation of the NOC obtained in the circumstances above and if so what.

With reference to the 4, 5 and 6 above the SPIO stated that the information was provided to the petitioner on 28.5.2018 that there is no record in the file. He also stated that the same status till prevails as the matter dispute of land-encroachment is being examined through concerned department and has referred to a letter to the Deputy Commissioner, Kamrup(M) vide GPL/UC/8/64/2016/25/54 dated 1.3.2019.

C. The petitioner alleged that the GMC has informed him that the rejection of occupancy is under process whereas occupancy was already rejected on 28.9.2016.

The SPIO has submitted the same statement as stated in B (3) above.

In view of the facts and circumstances above he submitted that there has been no suppression of information or false of information as alleged by the appellant. As such, it is prayed that the Commission may drop the instant proceedings against the SPIO GMC and pass such order as deemed fit and proper.

This Commission perused the point wise replies submitted by the SPIO and decided as follows:-

- (a) As already mentioned above the SPIO admitted that the date on the note sheets page 2 and 8 was put later on. This amounts to tampering of records. The clarification furnished by the SPIO of GMC that the petitioner has not specified regarding (all other papers) is accepted as note sheets had been furnished and other documents had not been specified.
- (b) The reply of the SPIO is not to the point as regard providing a map showing encroachment of land. The appellant was provided a map on 25.1.2018 where encroachment of land was not shown but, on the date of visit of appellant i.e. on 29.3.2019 a copy of the map showing encroachment was provided after 582 days. The reason for not providing the map within mandated period has not been explained by the SPIO. This amounts to willful delay on the part of the SPIO in providing the information sought for.

(c) The reply in regard to rejection of occupancy certificate is not acceptable. The petitioner was informed on 28.5.2019 that the matter of granting occupancy certificate was in process. Explanation given by the SPIO is that the rejection of occupancy certificate by the then Associate Planner GMC is on temporary nature as the party has option to correct the irregularities. In the instant case the matter of encroachment or deviation has not attained finality and therefore it is under process. Permanent rejection is done by the Commission with speaking order and followed by action under 337(3) and 337(A) of the GMC Act, 1971.

It appears to this Commission from his letter no. GPL/19/429/21062011/25/222 dated 28.9.2016 rejecting occupancy with regularization of declaration issued by GMC for Commissioner produced by the appellant that the rejection letter did not indicate any condition that it is subjected to modifications as stated by the SPIO. On the other hand the letter has been signed for Commissioner and it could not be treated that this was issued by the Associate Planner as stated by the SPIO.

In view of the above, the reply of the SPIO is not satisfactory and this Commission considers it a matter of incorrect, incomplete, misleading and delayed information provided to the RTI application. Therefore, a penalty of Rs. 25,000 is imposed on the SPIO of GMC which should be deposited by treasury challan under the Head of Accounts "0070-other administrative services" and the copy of the treasury challan shall be furnished to the Commission within the period of 30 days.

With the above direction, the second appeal petition dated 29.11.2017 is disposed of.

Sd/-

(Nilufer Alam Hazarika, IAS (Retd.))  
State Information Commissioners, Assam  
Panjabari, Guwahati

Authenticated true copy.



Joint Registrar  
Assam Information Commission

**Memo No. SIC/KP(M)152/2018**

**Dated. 10.7.2019**

Copy to:

1. The SPIO, Office of the GMC, Panbazar, Guwahati-1, Assam for information and necessary action.
2. The First Appellate Authority, Office of the GMC, Panbazar, Guwahati-1, Assam for information and necessary action.
3. The Petitioner Shri Bhagawati Prasad Siotia, 29 Radha Bazar, 3<sup>rd</sup> floor, SRCB Road, Fancy Bazar, Guwahati-1, Assam for information.
4. Computer Section for uploading in the Website.
5. Office File
6. Order Book



Joint Registrar  
Assam Information commission