

**OFFICE OF THE
ASSAM INFORMATION COMMISSION****JONAKKEE COMPLEX, SHILPGRAM ROAD, PANJABARI, GUWAHATI- 781037**Phone : (0361) 2332704, 2337900, 2331193 :: Fax : 2332704 :: email : secretary.sicassam@gmail.com

Case No. : SIC/KP(M)2137/2019
Complainant/ Appellant : Sayed. Mozzammil Hoque
Respondent : SPIO of the Registrar of Firms & Societies, Ghy
Date of Hearing : 12-08-2020
Complaint/ Second Appeal heard by : Dr. A.P.Rout, IPS(Retd)

O R D E R
18-08-2020

1. The petitioner Sayed. Mozzammil Hoque is present. The Public Authority to be represented by the SPIO of the Office of the Registrar, Firms & Societies, Assam is absent. The Public Authority i.e, SPIO of Office of the Registrar Firms & Societies, Assam has sent an application to Registrar i/c, State Information Commission, Assam vide letter dated 10.8.2020. This letter is not written in proper format i.e, it is addressed as 'Sir' but without mandatory words "yours faithfully".
2. **The SPIO Sri Palash Barooah,ACS failed to attend the hearing without any valid reason inspite of receipt of intimation sent to him vide this Commission letter no. SIC/KP(M)2137/2019/9 dated 23rd June 2020.**
3. The SPIO Sri Palash Barooah,ACS has authorized one Smt. Prativa Devi,UD Assistant to appear at the Commission on his behalf. Since there is no valid reason for absence of the SPIO and attendance of UD Assistant at the Commission is against the official protocol, she is not allowed to attend the hearing.
4. Coming to the furnishing of the information under the RTI Act, the Commission while going through the letter dated 5.11.2020 addressed to the RTI information seeker intimating that "the petitioner is to obtain the consent of the 3rd party i.e, Srimanta Sankardeva Kalakshetra Society as there is no provision for furnishing information to the 3rd party under RTI Act,2005". The Commission taken this letter into consideration and the letter no.RFS.RTI/35/2019/103 dated 10.8.2020 of the SPIO where again the SPIO repeated the same plea that the petitioner is to obtain the consent of the 3rd party. The Commission has taken adverse note of both the letters which find no place in the provision of the RTI Act 2005. As regards 3rd party information under Section 11(1),the provision is as follows:
Quote.. Where a Central Public Information Officer or a State Public Information Officer, as the case may be,intends to disclose any information or record, or part thereof on a request made under this Act which relates to or has been supplied by a third party and has been treated as confidential by that third part, The Central Public Information Officer or State Public Information Officer, as the case may be shall, within five days from the receipt of the request, given a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be intends to disclose the information or record, or part thereof, and invite the 3rd party to make a submission in writing or orally, regarding whether the information should be disclosed, and

such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party..**unquote.**

5. The casual and wrong application of provision of RTI Act by the SPIO, Registrar of Firms & Societies invites penal provision under Sec 20(1) of RTI Act 2005. The Commission still takes a lenient view and directs the SPIO to furnish the information within 15 days without any further delay.
6. With the above direction, the 2nd appeal petition dated 19.12.2019 is disposed off.

Sd-
Dr. A.P.Rout, IPS (Retd.)
State Chief Information Commissioner,
Assam, Panjabari, Guwahati

Authenticated true copy.

Sd/-
Registrar i/c
Assam Information Commission

Memo No. SIC/KP(M)2137/2019

Dated: 12-08-2020

Copy to:

1. The Principal Secy, Govt. of Assam. Finance Dept, Dispur, Ghy-06 for taking note of the observation of the Commission on the reply of the SPIO.
2. The First Appellate Authority, Office of the Registrar of Firms & Societies, Basistha Road, Bonful Nagar H.No-1, 4th floor, Dispur for information and necessary action
3. The SPIO of office of the Registrar of Firms & Societies, Basistha Road, Bonful Nagar H.No-1, 4th floor, Dispur for information and necessary action
4. Sayed Mozzammil Hoque, House No.-63, Siva Mandir Path, Bagharbari, Panjabari Ghy-37 for information.
5. Computer section for uploading in the website
6. Office File
7. Order Book

Registrar i/c
Assam Information Commission