



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

Case No. : SIC/KP(M)2042/2019
Complainant/ appellant : Sri Dulal Bora.
Respondent : SPIO of the Home & Political Department
Date of hearing : 28.8.2020
Date of order : 02.09.2020
Complaint/ Second : Dr. A.P. Rout, IPS (Retd.)
Appeal heard by : State Chief Information Commissioner, Assam

O R D E R
02.09.2020

The petitioner was issued notice through special messenger and the messenger submitted a report stating that the petitioner is not available at the address given in his second appeal. The SPIO of Home and Political Department Shri Santi Ram Roy is present. He has stated orally that the sought for information has already been uploaded in the Government Website. However, the Commission directs him to submit a hard copy to the petitioner.

The SPIO of Directorate of Vigilance & Anti Corruption was called in connection with the main linked file of the RTI case No SIC/KP(M).949/2017 wherein the Commission's order dated 8.10.2018 intended to know the decision on the regular inquiry No 52(12)2015. Sri Mojibur Rahman, IPS, SP of Vigilance & Anti Corruption is present at the hearing. Since both the original RTI petition dated 30.7.2016 and second appeal dated 24.7.2017 vide File No. SIC/KP (M)949/2017 and subsequent RTI petition dated 9.4.2019 and second appeal dated 18.7.2019 vide file No. SIC/KP(M)2042/2019 are linked, the Commission likes to examine the whole gamut of the issues as follows:-

THE RTI PETITIONER SRI DULAL BORA:

As per police report submitted before the Commission, Shri Dulal Bora shifted to Guwahati in 2002 from his ancestral home in Golaghat district, Assam. He did not inherit any ancestral land or property in Guwahati.

(A) Financial Status:-

His present landed and other properties including bank accounts are as follows:-

- (i) Plot of land with two storied building at Koinadhara, Guwahati City with purchase value of Rs.8, 50,000/-, whose present value becomes roughly Rs.1 Crore 5 lakhs.
- (ii) He has another house G+2 in Guwahati City with purchase value of Rs.47, 00,000/- and whose present value is more than Rs.2 crore 50 lakhs.
- (iii) In October, 2019 he entered into a sale agreement of land measuring 1 bigha 1 katha at Khanapara at price of Rs.2 crore and paid Rs.85 lakh in cash and 15 lakhs in cheque. One Sri Jagadish Yadav whose statement is recorded U/S 164 CrPC corroborated the above facts.
- (iv) A Ford Endeavour vehicle costing Rs.41 lakhs was purchased in 2017, A Mahindra Scorpio vehicle costing Rs.18 lakhs was purchased in June, 2019, A Maruti Suzuki vehicle costing Rs.5 lakhs was purchased in June 2019 and some two-wheelers were also purchased in his name.

(v) Bank statements –

He and his family members (wife and daughter) have various accounts in SBI, UBI, Dena Bank, Indian Overseas Bank, etc. and the details of transactions in these Banks stands at **Rs.7,92,85,178/- (nearly eight crores)**.

His wife works with monthly fixed wage of Rs. 8,500/- and daughter is unemployed.

His tax returns are as follows:

(Assessment Year)

2016-17	Total income -	5,76,750.00
	Tax paid	41,565.00
2017-18	Total income -	8,99,980.00
	Tax paid	1,11,958.00
2018-19	Total income -	13,65,720.00
	Tax paid	2,38,916.00
2019-20	Total income -	14,96,550.00
	Tax paid	2,85,805.00

(B) Criminal activities:

He has as many as 31 cases registered at various police stations of Assam relating to serious offences such as extortion, criminal conspiracy, forgery, cheating etc. He was arrested twice and was in judicial custody.

(C) Modus operandi of extortion:

Collecting information through RTI Act, 2005, by allegations, complaints, appeals etc. against various Govt. officers. Engaging sources in various offices and extorting money. Where he does not get money, he again files appeal, complaints or allegations on alleged illegal activities of public officers. In the name of RTI petitioner, he managed to extort so much money.

RTI appeal: (Petitioner lying before the Commission)

On the RTI petition dated 30.7.2016 and first appeal petition dated 16.5.2017 of Sri Dulal Bora vide file No SIC/KP(M) 949/2017, the Commission issued order dated 17.11.2017. On perusal of case records in connection with Chief Information Commissioner order dated 17.11.2017 vide case No SIC/KP(M)949/2017, it is seen that the petitioner Shri Dulal Bora filed a complaint petition dated 23.5.2016 addressed to the Chief Secretary to the Government of Assam “containing serious allegations against two senior IPS officers for their alleged involvement in the so called Shardha Scam relating to alleged unauthorized collection of deposits from the common men of the State by a company called “Shardha”. The petitioner alleged in his complaint petition that Vigilance & Anti Corruption wing of the State Government sought permission from the Home Department to interrogate those two senior police officers and that that the Home Department did not give such permission. The petitioner alleged that details of collection of deposits by the company called Shardha will come to light if the two senior police

officers mentioned in the compliant petition are interrogated. By his compliant petition, he requested the Chief Secretary to accord necessary permission for such interrogation”.

The petitioner Sri Dulal Bora was instructed by the Commission vide order dated 27.4.2018 to furnish copy of the relevant letter of the Directorate of Vigilance & Anti-Corruption seeking permission to interrogate the Senior IPS Officers. Sri Bora submitted orally before the Commission on 8.6.2018 vide order dated 13.6.2018 that he has furnished the relevant document to the SPIO of Political Department. The copy of letter No DGVA/RI/2016/452 dated 4.12.2016 submitted by him before the Commission relates to seeking permission of Govt. to take statement of one Sri Sudipta Sen and Sri Sadananda Gogoi. It does not relate to interrogating two senior IPS Officers. The petitioner was lying and misleading the Commission by his complaint petition dated 23.5.2016 addressed to the Chief Secretary, Assam and RTI petition dated 30.7.2016. The petitioner was warned by the Chief Information Commissioner to be more careful about the facts and contents of his complaint petition dated 23.5.2016 and RTI petition dated 30.7.2016 and subsequent appeal dated 24.7.2017.

THE DIRECTORATE OF VIGILANCE & ANTI CORRUPTION & SPIO OF VIGILANCE & ANTI CORRUPTION:

with reference to RTI petition dated 30.7.2016 and the second appeal dated 24.7.2017 of Sri Dulal Bora vide file No SIC/KP(M)949/2017, the following facts came to notice as per the information gathered though the RTI related to the Vigilance case:-

- (a) In utter disregard to the CVC Guidelines vide Circular No. 7/11/2014 dated 25.11.2014, the Directorate of Vigilance & Anti Corruption instituted a vigilance case against two Senior IPS officers on a pseudonymous letter of one Sri Avinash Sharma addressed to Mr. Rupak Dutta, Addl Director of CBI. The Inquiry Officer contrary to the facts available on record submitted an unsubstantiated and motivated report basing on which the Vigilance inquiry was initiated.
- (b) (i) Subsequent letter vide No. DGVA/RI/52(12)2015/2386 dated 26.06.2018 written by IG, Vigilance and Anti Corruption, Assam had mentioned that the enquiry report was subjective, contradictory with little material to support it.
(ii) IG, Vigilance in his above report refers to the prejudicial intention and ill motive of the enquiry officer in referring to a 25 years old closed case and analyzing the merit of its closure.
- (c) After initiation of Vigilance inquiry, the Directorate of Vigilance & Anti Corruption wrote to the Govt. to interrogate one Sri Sudipta Sen and one Sadananda Gogoi. They never wrote to Govt seeking permission for interrogation of two senior IPS officers as claimed by the petitioner in his complaint petition dated 23.5.2016 before Chief Secretary and in his second appeal dated 24.7.2017 vide case No SIC/KP(M)949/2017. The Chief Information Commissioner vide his order dated 17.11.2017 while analyzing the facts of the issue i.e. the letter of Vigilance & Anti Corruption to the Govt. on interrogating of two Senior IPS Officers, directed the SPIO of Directorate of Vigilance & Anti Corruption for appearance with action taken report in the next date of hearing. A copy of the order was duly marked to the Directorate of Vigilance & Anti Corruption, Govt. of Assam vide No SIC/KP(M)949/2017/13 dated 17.11.2017
- (d) In pursuance to this letter, another hearing was held on 9.1.2018 in which the SPIO of Vigilance & Anti Corruption Sri Mojibur Rahman was present. It was his duty to bring to the notice of the Commission that the Directorate of Vigilance & Anti-Corruption has

not written any such letter to the Govt. seeking permission to interrogate two Senior IPS Officers. But he failed to do so. This amounts to not only indifference attitude on the part of the SPIO of Vigilance & Anti Corruption but also suppression of information. However, the SPIO of Vigilance & Anti Corruption vide letter dated 26.2.2018 filed an affidavit stating that the Directorate did not seek permission of the Govt. to interrogate the Senior IPS Officers.

Further, in examining the reply given by the SPIO of Directorate of Vigilance & Anti Corruption to a RTI petition vide letter No. DGVA/RI/2017/2963 dated 28.7.2017, it is seen that the SPIO has failed to adhere to guidelines u/s 7(8) of RTI Act, 2005 i.e. while rejecting of RTI petition, the SPIO has to give the name and designation of appellate authority and the period within which the appeal is to be preferred.

THE PENDENCY OF THE VIGILANCE FILE AT THE OFFICE OF THE CHIEF SECRETARY, (Sri V.K. Pipersenia, IAS), ASSAM

Since the RTI petition dated 30.7.2016, followed up with first appeal dated 16.5.2017 and second appeal dated 24.7.2017 vide case no SIC/KP(M)949/2017 relates to the Vigilance case against two Senior IPS Officers and since the petitioner misrepresented that the Directorate of Vigilance & Anti-Corruption sought permission to interrogate two Senior Officers, and subsequently untraceability of the file, the Commission desires to go into details of pendency of the file.

It was seen that the Vigilance file No. PLA(V)327/2014 relating to two Senior Officers was placed before Hon'ble Home Minister and Chief Minister for final decision by the then Chief Secretary Sri V. K. Pipersenia, IAS and the same was signed on 11.5.2016 or 12.5.2016 as per the noting dated 17.3.2018 of succeeding Chief Secretary.

The succeeding Chief Secretary mentioned that the file was signed and case was ordered to be closed by the Chief Minister on 11.5.2016 or 12.5.2016 and was marked to the Addl. Chief Secretary of Home & Political Department on 12.5.2016 by the then Chief Secretary Sri V.K. Pipersenia. Interestingly, the file remained pending with the Chief Secretary Sri Pipersenia from 12.5.2016 to 28.2.2018. The most disturbing aspect of untraceability of the file is that the Senior-most Bureaucrat in Assam i.e. Chief Secretary Sri V.K. Pipersenia wrote in his own hand on note sheet of file No PLA (V)327/2014 . "However, this file somehow got misplaced and has now been traced today when I asked for cleaning of my office on the eve of retirement from the office. The file is written as the linked file to this file (PLA(V) 327/2014/pt)"

- (e) Another disturbing fact is that this vigilance case was instituted after institution of CBI case vide NO RC04(S)/2014/EO/IV Calcutta and CBI giving clean chit to Officers against whom the vigilance case was instituted on anonymous complaint. The norm is to give serious and public interest cases to CBI only after initiation of case at the State Police.

INFORMATION COMMISSIONER, ASSAM: It is pertinent to mention that the Information Commission, Assam during the hearing of appeal vide case No. SIC/KP(M)949/2017 became aware of the fact that Sri Dulal Bora filed the complaint petition dated 23.5.2016 before Chief Secretary, followed up with the RTI petition dated 30.7.2016 on the presumption that the Directorate of Vigilance & Anti Corruption department has written to the Govt. seeking permission to interrogate two Senior IPS Officers. In fact, the petitioner Sri Dulal Bora was lying before the Commission that he

was in possession of copy of the letter and accordingly the Commission vide order dated 17.11.2017 directed him hand over a copy to the SPIO Political Department. The petitioner Sri Bora, submitted a different letter by which the Directorate of Vigilance & Anti Corruption wrote to interrogate Sri Sudipta Sen and Sri Sadananda Gogoi. In spite of malafide intention and misleading statement of the petitioner, the Commission instead of disposing the hearing, went ahead with tracing of the Vigilance file which in any case was not the main issue of the RTI application. Even the subsequent affidavit dated 26.2.2018, SPIO of Vigilance & Anti Corruption mentioned that the Directorate never sought permission to interrogate two senior IPS Police Officers.

Sd/-
(Dr. A.P. Rout)

Authenticated true copy.

Sd/-
Registrar i/c
Assam Information Commission

Memo No. SIC/ KP(M)2042/2019

Dtd. 2.9.2020

Copy to:

1. The SPIO of the Office of the Home & Political Department, Dispur, Guwahati-06, Assam for information and necessary action.
2. The First Appellate Authority, Office of the Home & Political Department, Dispur, Guwahati-06, Assam for information and necessary action.
3. The Appellant, Sri Dulal Bora, Kainadhara Tiniali, H.No-118, Khanapara, Guwahati-22 for information.
4. Computer Section for uploading in the Website.
5. Office File.
6. Order Book.

Registrar i/c
Assam Information Commission