

**OFFICE OF THE  
ASSAM INFORMATION COMMISSION**

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**Case No. : SIC/KP(M)106/2020**  
**Complainant/ Appellant : Sri Joydeb Das**  
**Respondent : SPIO of Directorate of Vigilance & Anti  
Corruption, Assam, Srimantapur, Guwahati-32**  
**Date of Hearing : 16-10-2020**  
**Complaint/ Second : Dr. A.P.Rout, IPS(Retd)**  
**Appeal heard by : State Chief Information Commissioner, Assam**

**O R D E R**  
**16-10-2020**

1. The petitioner Sri Joydeb Das is present.
2. The petitioner Sri Joydeb Das has submitted a letter dated 29.5.2017 before the Additional Directorate General of Police, Vigilance & Anti-Corruption, Assam lodging an FIR against Smti Juri Phukan, ACS.
3. After that vide his letter dated 14.10.2017, he filed a petition before SPIO of V&AC to know the status of the complaint he has lodged before the Additional Directorate General of Police, V&AC. In response he again wrote a letter on 15.11.2019 asking for copy of the enquiry report.
4. The SPIO of V&AC replied to the above letter stating that preliminary enquiry is confidential in nature and the enquiry report cannot be furnished as per provision of Section 8(g) of RTI Act, 2005. They followed it up with 1<sup>st</sup> Appellate Authority petition vide his letter dated 18.12.2019 to which the 1<sup>st</sup> Appellate Authority i.e., DIG of Directorate of V&AC disposed off stating that complaint petition on 29.5.2017 of Sri Joydeb Das was considered as preliminary enquiry and accordingly it was endorsed to DSP Sri Pallab Tamuli, APS for enquiry. Enquiry Officer has completed the enquiry and the report mentions that allegation is unsubstantiated and the enquiry is closed. However the 1<sup>st</sup> Appellate Authority apparently did not take any action on disposal of the valid petition.
5. The petitioner vide his letter dated 24.1.2020 submitted 2<sup>nd</sup> appeal petition before the Commission.
6. During the hearing, the SPIO of Directorate of V&AC remained absent and sent a written statement stating that the information was not furnished to the RTI petitioner as per exemption under Section 8(g) of RTI Act 2005 which states that there is no obligation from the Public Authority to furnish information, the disclosure of which could endanger the life and physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security.
7. While analyzing the case the Commission would like to mention the following facts/ provision and case references; . Right to Information is a part of fundamental rights under Article 19 of the Constitution which states *Quote* Everyone has the right to freedom of opinion and expression, this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers *Unquote*.
8. **The Supreme Court in Secretary, Ministry of Information & Broadcasting, Govt. of India and Ors. v. Cricket Association of Bengal & Ors.- (1995) 2 SCC 161, “this Court also held that right to acquire information and to disseminate it is an intrinsic component of freedom of speech and expression.”**

**In People’s Union for Civil Liberties and Anr. V. Union of India and Ors- (2004) 2 SSC 476 this Court reiterated, relying on the aforesaid judgments,**

**that right to information is a facet of the right to freedom of & quote; speech and expression & quote; as contained in Article 19(1)(a) of the Constitution of India and also held that right to information is definitely a fundamental right.**

9. The sunshine Act i.e., RTI Act 2005 envisages furnishing of information as non furnishing is only exception. Transparency in Public Authority Office is not only to be maintained but also seen to be maintained. Public has right to know that the transparency is maintained.
10. The RTI Act is citizen friendly Act aiming at total transparency even right fully superseding the Official Secrecy Act.
11. Let's examine the provision of Section 8(g) of the RTI Act 2005. It states that: Information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes.
12. The Section relates to the exemption available in connection with law enforcement or security purpose.
13. The SPIO has not mentioned the mandate of V&AC and how the mandate comes under the category of law enforcement and security.
14. Coming to the information, it is not understood how the SPIO will take recourse to exemption under Section 8(g) of RTI Act, 2005 when petitioner who himself lodged the complaint for conducting Vigilance enquiry will be deprived of providing with the copy of the enquiry report.
15. In the instant case, the enquiry report was found to be unsubstantiated and closed.
16. The SPIO has not elaborated when the enquiry report is unsubstantiated and how it is going to endanger the life or physical safety of any person or identify the source of information (the petitioner himself provided the information) or assistance (the petitioner himself given necessary assistance) given in confidence for law enforcement or security purpose.
17. Hence it is abundantly clear that non furnishing of information allegedly under the cover of exemption vide Section 8(g) is non application or wrong interpretation of the provision of Section 8(g) of the RTI Act.
18. Therefore the Commission directs the SPIO to furnish a copy of the enquiry report to the petitioner.
19. In light of this, the case is disposed off.

Sd/-  
Dr. A.P.Rout

Authenticated true copy.

Sd/-  
Registrar i/c  
Assam Information Commission

Memo No. SIC/ KP(M)106/2020

Dated: 12-10-2020

Copy to:

1. SPIO of the Directorate of Vigilance & Anti Corruption, Assam, Srimantapur, Guwahati-32 for information.
2. First Appellate Authority, Directorate of Vigilance & Anti Corruption Assam, Srimantapur, Guwahati-32 for information.

3. The petitioner, Sri Joydeb Das, S/O-Lt. Karunamoy Das, House No.16, Kushal Konwar Road, Near Mayur Krishna Cinema Hall, Ambari Fatashil for information.
4. Computer section for uploading in the website
5. Office File
6. Order Book

Registrar i/c  
Assam Information Commission