



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

Case No. : SIC/KP (M).238/2020
Complainant/ appellant : Sri Nripen Malakar
Respondent : SPIO, Directorate of Social Welfare
Date of hearing : 03.02.2021
Complaint/ Second : Dr. A.P. Rout, IPS (Retd.)
Appeal heard by : State Chief Information Commissioner, Assam

O R D E R
03.02.2021

1. The petitioner Sri Nripen Malakar is present. The petitioner Sri Nripen Malakar has filed RTI petition dated 22.7.2020 seeking following information:-

I.

- (a) The amount received by the Govt. of Assam from Govt. of India under State Nutrition Programme from 1st March, 2019 till 22.7.2020. Prove the information of amounts received installment wise.
- (b) For implementation of the scheme, what procedures were followed by the department.
- (c) How many NGOs took part in the procedure and the amounts received by those NGOs. Give details order wise and also provide the copy of orders from 1st March, 2019 till 22.7.2020

II.

- (a) If any amount is spent for repairing of Anganwadi Centers from 1st April, 2019 till 31st March, 2020.
- (b) If yes, then the total nos of centers repaired. Give the names of those centers, the names of contractor and the amounts sanctioned
- (c) If any amount is released for repairing of Anganwadi Centers, if yes then when it was released.
- (d) Whether any amount is released for construction of new Anganwadi Centers under Central Govt. fund from 1st April, 2019 till date, if yes then the names of contractor and the amounts sanctioned.

Being aggrieved by non furnishing of information the petitioner filed first appeal petition on 31.8.2020 before the First Appellate Authority of Directorate Social Welfare, Assam. Then the petitioner filed second appeal petition dated 6.10.2020 before the Commission.

2. The public authority to be represented by the SPIO of the Directorate of Social Welfare Shri Madhu Sudan Nath, ACS is absent. However, he has sent a letter No. DSW(G)58/2020/26 dated 28.1.2021 addressed to Smti Dipti Phukan, PO-I Branch Officer (ICDS Cell) to attend the hearing as she has failed to provide the information to the SPIO within the stipulated time.

3. By going through the contention of the letter, the Commission takes strong exception to it as the Commission is not supposed to look into the internal disciplinary, functioning/ malfunctioning of the department.

4. As per the Section 7 of the RTI Act, 2005, it is the responsibility of the SPIO to furnish the information within the stipulated time period.

5. The Delhi High Court vide WP(C) 900/2021 and CM Appeal 2395/2021 dated 22.1.2021 has pronounced the following principles :-
- (i) Government departments ought not to be permitted to evade disclosure of information. Diligence has to be exercised by the said departments, by conducting a thorough search and enquiry, before concluding that the information is not available or traceable;
 - (ii) Every effort should be made to locate information, and the fear of disciplinary action would work as a deterrent against suppression of information for vested interests;
 - (iii) PIO/SPIO cannot functioned merely as "post office" but instead are responsible to ensure that the information sought under the RTI Act is provided;
 - (iv) A PIO/SPIO has to apply their mind, analyze the material and then direct disclosure or give reasons for non-disclosure. The PIO cannot rely upon subordinate officers;
 - (v) Duty of compliance lies upon the PIO/SPIO. The exercise of power by the PIO/SPIO has to be with objectivity and seriousness the PIO/SPIO cannot be causal in their approach.
6. As per Section 20 of the RTI Act, 2005 penalty should be imposed on the SPIO for his failure to furnish information to the petitioner within stipulated time period.
7. **In light of it, the Commission directs the SPIO of Directorate of Social Welfare to submit a written affidavit explaining why penalty under Section 20 of the RTI Act, 2005 should not be imposed on him.**
8. **At the same time the Commission advises the SPIO to sort-out the departmental problems in the department by approaching the disciplinary authority.**
9. **Fix 1.3.2021 at 11.30 AM for next date of hearing.**

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

Authenticated true copy.

Sd/-
Joint Registrar i/c
Assam Information Commission

Memo No. SIC/ KP(M).238/2020

Dtd. 3.2.2021

Copy to:

1. The Chief Secretary, Govt. of Assam, Assam Secretariat, Dispur, Guwahati-06 for information.
2. Director & First Appellate Authority of Directorate of Social Welfare, Uzan Bazaar, Guwahati-01 for information.
3. Shri Madhu Sudan Nath, ACS, Addl Director & SPIO of Directorate of Social Welfare, Assam for information and necessary action. He is to remain present on the next date of hearing.
4. Sri Nripen Malakar, Sarumotoria, Dr. Jakir Hussain Road, Samannay Path, H.No- 27(A), Guwahati-36 for information. He is to remain present on the next date of hearing.
5. Computer Section for uploading in the Website.
6. Office File.
7. Order Book.

Joint Registrar i/c
Assam Information Commission