



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

Case No. : SIC/KP(M)51/2021  
Complainant/ appellant : Smti Jamuna Pator.  
Respondent : SPIO & Officer-in –charge, O/o the Howly Police Station, Barpeta  
Date of hearing : 23.04.2021  
Complaint/ Second : Dr. A.P. Rout.  
Appeal heard by : State Chief Information Commissioner, Assam

**O R D E R**

23.04.2021

1. The petitioner Smti Jamuna Pator is absent. However, she has authorized Ismail Hoque, Advocate to represent her in today's hearing. The SPIO i.e. the OC Howly Police Station is absent and has forwarded a written statement which is taken on records.

2. The petitioner filed RTI petition dated 16.10.2020 before the PIO, O/o the Howly Police Station seeking the following information

- (i) Legible copy of FIR(certified to be true copy may furnish)
- (ii) A copy of Police report.
- (iii) What is the present status of the case.
- (iv) Legible Copies of permits, insurance policy, Driving license and Registration certificate of vehicle No. AS-01CC-2131
- (v) Specifically mentioned the Insurance policy details with Number & validity and address of Insured.
- (vi) Copy of GDE of the aforesaid incident.

And then she has filed first appeal petition before the SP, Barpeta 24.11.2020 and then she filed second appeal petition before the Commission on 2.2.2021.

3. The first appeal hearing was fixed on 24.3.2021 and in response to that the APIO, O/o the SP, Barpeta has filed a written statement vide letter No BPTA/V-91/21/1550 dated 22.3.2021 wherein he has mentioned that the OC has already sent information directly to the appellant on 2.11.2020. In the 2.11.2020 reply, the OC has mentioned that the information is exempted under Section 8(1)(h) of the RTI Act, 2005 as the investigation is on.

4. In response to the Commission's order dated 24.3.2021, the OC, Howly Police Station, SI Sri Abhijit Kr. Baruah has submitted his written statement vide email making untenable statement that he is badly busy due to Covid infection in the Police Station. He further made absurd and hypothetical presumption that law under the situation may arise due to counting and he has been badly busy in area domination etc. **The Commission finds this to be a lame excuse on the part of the OC.**

5. **The Commission expresses its displeasure for this irresponsible statement of the OC and brings it to the notice of the SP, Barpeta.**

6. The Advocate representing the RTI petitioner raised objection by enclosing herewith the following judgments and argued that the OC is taking the frivolous and wrong plea with malafide intention under Section 8(1)(h) of the RTI Act, 2005.

7. The Commission would like to quote the decision of the Central Information Commission in case No. CIC/LS/A/2010/000685 relating the Appellant Smt Durgesh Kuamri and respondent Income Tax Department:-

“From a plain reading of the above provision, it follows that Section 8(1)(h) of the RTI Act exempts disclosure of information which would impede the process of investigation or

apprehension or prosecution of offenders. Merely because the process of investigation or apprehension or prosecution of offenders is continuing, the bar stipulated under Section 8(1)(h) of the RTI Act is not attracted; it must be clearly established by the PIO that disclosure of the information would impede the process of investigation or apprehension or prosecution of offenders. If Parliament wanted to exempt all information relating to investigation or apprehension or prosecution, it would not have imposed the condition that disclosure should 'impede' the investigation or prosecution. In this regard, it would be relevant to note the observation of Ravindre Bhat, J. of the High Court of Delhi in Bhagat Singh v. CIC. W.P.O No 311/2007 dated 03/12/2007.

The denial of information by the PIO appears to be a mere blanket statement not supported by any cogent evidence or material on the basis of which it can be clearly demonstrated that such disclosure would in fact attract the exemption contained in Section 8(1)(h) of the RTI Act. When denying a right to the citizen, it has to be established beyond doubt that prosecution or apprehension of an offender would be impede. In other words, the burden placed under Section 19(5) of the RTI Act has not been discharged while establishing that the denial of information under Section 8(1)(h) of the RTI Act was justified."

8. The Delhi High Court vide WP(C) 3701/2018 in Amit Kumar Srivastava VS Central Information Commission orders as follows:-

"What follows from the legal position is that where a public authority takes recourse to Section 8(1)(h) of the RTI Act to withhold information, the burden is on the public authority to show that in what manner disclosure of such information could impede the investigation. The word 'impede' would mean anything that would hamper or interfere with the investigation or prosecution of the offenders.

As noted above, the legal position as settled by this court is that cogent reasons have to be given by the public authority as to how and why the investigation or prosecution will get impaired or hampered by giving the information is question. In the impugned order, there is no attempt made whatsoever to show as to how giving the information sought for would hamper the investigation and the on-going disciplinary proceedings. The impugned order concludes that a charge sheet has been filed in the criminal case by the CBI but in the disciplinary proceedings the matter is still pending. Based on this fact simplicitor the impugned order accepts the plea of the respondent and holds that the Section 8(1)(h) is attracted and the respondents are justified in not giving information to the petitioner. No reasons are spelt out as to how the investigation or prosecution will be hampered".

**In light of the above orders of CIC, India, Delhi High Court and many similar orders of other Courts, the Commission agrees to a great extent on the argument of the petitioner that the OC is wrongly quoting the RTI Act in seeking exemption in furnishing the information.**

**Therefore, the Commission feels that the Legible copy of FIR, the present status of the case vide point No. 1, 3 and copy of GDE vide point No 6 of the RTI petition is in no way come to impede the investigation or hamper the prosecution. Therefore, the Commission orders that all the above information be given immediately to the petitioner. However, as regards to Point No 4 and 5 if not hit by Section 11 of the RTI Act, 2005 the Commission orders that the information be immediately given or process as enumerated Section 11 of RTI be complied with.**

**Since the case is still under investigation, the question of submission of copy of Police report does not arise.**

The second appeal petition dated 2.2.2021 is disposed off.

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

Authenticated true copy.

Sd/-  
Joint Registrar i/c  
Assam Information Commission

**Memo No. SIC/ KP(M)51/2021**

**Dated 23.4.2021**

Copy to:

1. Dr. Robin Kumar, IPS, Superintendent of Police, Barpeta, Sundaridia, Barpeta Town PIN-781314 for information and necessary action. (A copy of letter of SI Shri Abhijit Kr. Baruch has been enclosed and observation of the Commission be taken note of).
2. Shri Abhijit Kr. Baruah, Officer-in-charge, O/o the Howly Police Station, Barpeta, PIN-781316 for information and necessary action.
3. Miss Jamuna Pator, D/o Sri Bhog Sing Pator, Vill- Bherakuchi, Kamrup(M), PIN-782403 for information
4. Computer Section for uploading in the Website.
5. Office File.
6. Order Book.

Joint Registrar i/c  
Assam Information Commission