



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

Case No. : SIC/Biswanath.4/2021
Complainant/ appellant : Sri Manoj Kr. Sahani.
Respondent : SPIO of the Deputy Commissioner, Biswanath
Date of hearing : 15.9.2021
Complaint/ Second : Dr. A.P. Rout.
Appeal heard by : State Chief Information Commissioner, Assam

O R D E R
15.9.2021

1. The petitioner Sri Manoj Kr. Sahani filed RTI petition dated 10.11.2020 before the SPIO of the Office of the Deputy Commissioner, Biswanath.
2. As per Section 19(1) & (2) of the RTI Act, 2005, the petitioner if not received the reply to his RTI petition within stipulated time is suppose to appeal before the First Appellate Authority.
3. In the instant case in pursuance to his RTI petition, the SPIO, O/o the DC, Biswanath vide letter No BMP-21/2016/Part-V/560 dated 18.12.2020 furnished point wise information to the petitioner.
4. However, the RTI petitioner submitted his complaint petition under Section 18 of the RTI Act, 2005 before the Commission stating “the concerned public authority concealed the information for their interest and prepared a totally false, misleading and incomplete information. That the public authority for their ill will and malafide intension violating the mandatory provision of RTI Act, 2005 furnished false and incomplete, misleading information and such acts of public authority invites action u/s 20 of the RTI Act”.
5. Accordingly the hearing of complaint petition is fixed today after issuance of notices to the appellant/complainant and the SPIO of the Office of the DC, Biswanath.
6. The Complainant Sri Manoj Kr. Sahani is absent. He has sent a petition dated 15.9.2021 over email stating that he was under treatment and is not able to move out to attend the hearing and also prayed to fix another date. The Complainant has not enclosed any medical certificate on his alleged treatment.
7. The public authority i.e. the SPIO of the Office of the Deputy Commissioner, Biswanath i.e. SDO(S) Sri Dipen Barman, ACS is present.
8. The RTI Act is a pro Public (Pro petitioner) Act encompassing the constitutional rights and freedom of expression under article 19 of the Indian Constitution.

9. In this particular case, if the RTI petitioner was not satisfied with the reply of the SPIO, he had the opportunity to ventilate his grievances at the level of First Appellate Authority who is normally a Senior Gazette Office of the Government. In this instant case the First Appellate Authority is the Addl. Deputy Commissioner, Biswanath. Instead of doing that, the RTI petitioner filed a complaint petition before the Commission. Had he given that much importance and urgency to the case, he should have been present at the hearing to justify his alleged non receipt of correct information. Instead of doing that, he simply sent a prayer petition and that to on 15.9.2021 i.e. the date of second appeal hearing stating that he is not well which is not supported by any medical certificate.

10. The Complainant knows very well that that Commission is to handle hundreds of RTI second appeal petitions and devote allotted time to hear and to provide the justice to the second appeal petitioners. When the second appeal hearing is fixed, sufficient time of the office of the Commission is spent and the SPIO and other Government Officers are also intimated to attend the hearing at the cost of the routine official duties. In the process, not only the Government cost incurs expenses in journey of officers but general public are deprived of the services of those officers. Further, the Commission's time is wasted and the cases of serious nature also get delayed as the Commission hears the cases serially.

11. In this particular case, if the petitioner was not satisfied with the reply of SPIO, he could have approached the First Appellate Authority who is a field level Officer and would have got the satisfactory reply. But he did not do that.

12. The Commission expresses its displeasure on the casualness of the petitioner for which the valuable time of the Commission was wasted and Government bore the cost of travelling of SPIOs etc. and general public got deprived of services of SPIOs etc

13. From the above, it can be easily deduced that the intention of the RTI complainant was not to get the information but to put pressure on SPIO and waste the precious resources of the Department and also waste the time of the Commission.

14. Further, the Commission would like to highlight the order of the Hon'ble Delhi High Court in Har Kisan VS President Secretariat in WP(C) 7976/2020 **"The Court is of the opinion that whenever information is sought under the RTI Act, disclosure of an interest in the information sought would be necessary to establish the bonafides of the applicant. Non-disclosure of the same could result in injustice to several other affected persons"**.

Since petitioner has no cause of action as per the Delhi High Court order supra in Har Kisan VS President Secretariat in WP(C) 7976/2020, the Commission directs the petitioner to file an affidavit within 30 days explaining why he should not be debarred from filing second appeal petitions at this Commission for misusing the Act, wasting the time of the Commission and field level officers and also blocking the hearing chances of the other RTI petitioners.

15. Commission would like to cite the following cases of State Information Commissions where the appellants/ complainants are debarred from filing second appeal petitions:

Case No. AC 312 to 317 of 2017 dated 19.7.2017 decides in the Full Bench of the Chief Information Commission, Punjab in debarring the petitioner Sri Gurdeep Singh had stated:

Quote it has been observed by the Full Bench that the appellant's act of running riot with filing repeated applications seeking inane and voluminous information has become counterproductive of public interest. It has been held that the appellant is misusing the RTI Act with unsavory motives. Accordingly he has been disqualified from seeking information in future and Public Authorities in the Department of Food Civil Supplies and Consumer Affairs Punjab have been allowed to ignore his RTI applications in future, debarring him from seeking information from the Public Authorities of the said department Unquote.

Case No.08 of 2018 dated 15.3.2018 decided by the bench of Hon'ble SIC Sh. Yashvir Mahajan, Chief Information Commission, Punjab in debarring the petitioner Sri Rajinder Singh Panwar had stated:

Quote it has been observed by the bench that the appeal in hand is vague and specific indication to seek information has not been made. DR of the Commission has been directed that in case a complaint or appeal is received on the same issue it should not be entertained as he is habitually making repeated representations Unquote.

In case No SIC/DMJ.20/2020 dated 21.11.2020 decided by the Chief Information Commissioner, Assam Information Commission in debarring the petitioner Sri Sanjib Tamuli had stated:

Quote the Commission is constrained to believe that the petitioner is misusing the provision of the RTI Act, 2005 with misleading information and filing of malicious 2nd appeal petition before the Commission with ulterior motive. Hence the Commission debars him from filing second appeal petition at the Commission for one year Unquote.

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

Authenticated true copy.

Sd/-
Secretary & Registrar
Assam Information Commission

Memo No. SIC/Biswanath.4/2021

Dtd. 15.9.2021

Copy to:

1. The SPIO of the Office of the Deputy Commissioner, Biswanath, Biswanath Chariali, PIN-784176 for information.
2. Sri Manoj Kr. Sahani, Vill-Kumalia Centre, PO- Panibharal Dist-Biswanath, PIN-784176 for information and necessary action.
3. Computer Section for uploading in the Website.
4. Office File.
5. Order Book.

Secretary & Registrar
Assam Information Commission