

OFFICE OF THE  
**ASSAM INFORMATION COMMISSION**

**JONAKEE COMPLEX, SHILPGRAM ROAD, PANJABARI, GUWAHATI- 781037**

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**Case No.** :SIC/KP(M)259/2021  
**Complainant/ Appellant** :Sri Joydeb Das  
**Respondent** :SPIO of the Office of Director, Dairy Development  
Department, Assam  
**Date of Hearing** :29/09/2021  
**Complaint/ Second** : Dr. A.P.Rout,  
**Appeal heard by** State Chief Information Commissioner, Assam

**O R D E R**  
**29/09/2021**

1. The petitioner Sri Joydeb Das is present. The petitioner has filed his RTI application before the PIO of Animal Husbandry and Veterinary Department, Dispur on 25.5.2021 seeking following information:-
  - (a) Please furnish in details of the month wise amount of House Rent Allowance drawn by Sri Utpal Sarma presently posted as Director i/c, in Directorate of Dairy Development, Assam, Khanapara 22 from since joining to till date.
2. This letter was forwarded to PIO of Dairy Development, Khanapara, Guwahati vide letter no. VFV.430/2012/Pt-VII/6 dated Dispur the 21<sup>st</sup> June,2021.
3. The SPIO of the Directorate of Dairy Development, Khanapara, Guwahati vide his letter no. DD/A-1/235/Pt.-D/2021-22/1466 dated 8<sup>th</sup> July 2021 has submitted the following reply:-

*Quote* on the strength of O.M. No. 11/2/2013 – IR(Pt) Dated 14.8.2013 under Ministry of Personnel, Public Grievances & Pensions Department of Personnel & Training, Government of India and the Hon'ble Supreme Court's order in SLP (C) No. 27734/2012 in the matter of Girish R.Deshpande Vs C.I.C and ORS, where it has stated that the information related to the performance of an employee and employer and normally those aspects are governed by the service rules which fall under the expression "personal information" , the disclosure of which has no relationship to any public activity on Public interest, on the other hand the disclosure of which could cause unwarranted invasion of privacy of the individual. *Unquote*.
4. Being aggrieved, the petitioner filed 1<sup>st</sup> appeal before the 1<sup>st</sup> Appellate Authority of Directorate of Dairy Development, Khanapara vide his letter dated 15.7.2021. In his appeal, he stated that government servant is doing public duty and being paid from the exchequer of the government contributed by the tax payer. Hence the information cannot be personal information and cannot be exempted u/s 8(1)(J) of the RTI Act,2005.
5. The petitioner, then filed 2<sup>nd</sup> appeal before the Commission on 12.8.2021 and accordingly the hearing was taken today.
6. The Public Authority is represented by Biswadeep Hazarika, RDEO cum SPIO, Directorate of Dairy Development, Assam and he is accompanied by Dwijen Choudhury, Directorate of Dairy Development Deptt. Assam.
7. At the hearing, the Commission asked the RTI petitioner what is his greater public interest for which he is filing RTI petition.
8. The petitioner stated that the person i.e.,Sri Utpal Sarma, Director i/c, Dairy Development Board whose information is sought is a government servant and his wife is working in IOCL which is a Public Sector Undertakings of Government of India and she draws the normal house rent whereas the Director i/c is also drawing house rent and as per Government rules, if both husband and wife are staying in same location, they cannot claim double house rent and thereby with malafide intention, siphoning off government money as house rent ultimately comes from the contribution of the tax bearers. Hence, larger public interest is

involved and an officer doing some mischievous activities cannot be exempted from providing information u/s 8(1)(j) of the RTI Act,2005.

9. After this, the Commission asked the SPIO and also examined the written submission wherein they have mentioned the Honorable Supreme Court in Girish Ram Chandra Deshpande Vs Central Information Commission & Ors wherein it is mentioned that the information relating to performance of an employee/officers in an organization and primarily matter between the employee and employer and is normally governed by the service rules.
10. After careful examination of it, the Commission of the opinion that the SPIO has misinterpreted the order of Honorable Supreme Court in SLP (C) No. 27734/2012 by treating alleged violation of drawing of House Rent Allowance and alleged misuse of government fund by public servant as Personal information relating to the employee and employer. Further the Preamble of the RTI Act, 2005 incorporates transparency and accountability and hence the alleged fraudulent Act of Government servant who is performing public duty can be exempted under the provision of Section 8(1)(j) of the RTI Act,2005.
11. In light of it, the Commission orders the SPIO to furnish the information to the petitioner within 1 month.
12. In view of the above, the case is disposed off.

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

Authenticated true copy.

Sd/-  
Secretary & Registrar  
Assam Information Commission

**Memo No. SIC/KP(M).259/2021**

**Dtd. 30.9.2021**

Copy to:

1. The SPIO of the office of the Director, Dairy Development Department, Khanapara Guwahati 22 for information and necessary action as ordered above.
2. The First Appellate Authority of the office of the Animal Husbandry & Veterinary Department, Secretariat Dispur for information.
3. The petitioner Sri Joydeb Das, S/O Lt. Karunamoy Das, H.No.16, Kushal Konwar Road, Near Mayur Krishna Cinema Hall, Ambari Fatashil, Guwahati for information.
4. Computer Section for uploading in the Website.
5. Office File.
6. Order Book.

Secretary & Registrar  
Assam Information Commission