

**Case No.** : SIC/KP(M).371/2021  
**Complainant/ Appellant** : Sri Joydeb Das  
**Respondent** : SPIO, Office of the Commandant, 10<sup>th</sup> Assam  
Police Battalion, Kahilipara, Guwahati  
**Date of Hearing** : 10/12/2021  
**Complaint/ Second** : Dr. A.P.Rout,  
**Appeal heard by** State Chief Information Commissioner, Assam

**O R D E R**  
**10/12/2021**

1. The petitioner Sri Joydeb Das is present. The petitioner has filed his RTI application before the PIO of the Office of the Commandant, 10<sup>th</sup> Assam Police Battalion, Kahilipara, Guwahati on 1.9.2021 seeking some information about cattle shed construction inside the premises of 10<sup>th</sup> APBN.
2. On non-receipt of any information, the petitioner filed 1<sup>st</sup> appeal before the 1<sup>st</sup> Appellate Authority of the Office of the Commandant, 10<sup>th</sup> Assam Police Battalion, Kahilipara, Guwahati on 5.10.2021.
3. The Commandant of 10<sup>th</sup> Assam Police Battalion, Kahilipara then sent a letter to the petitioner on the petitioner's 1<sup>st</sup> appeal wherein it is mentioned that their Unit is not in a position to furnish reply under RTI Act, 2005 as the Govt. Of Assam has exempted the Assam Police Battalions from the purview of the Right to Information Act vide Govt. Of India as per Section 24(4) of the Act vide Govt. Of Assam, Political (A) Department notification no. PLA.384/2005/54 dated 8.3.2006 conveyed by Deputy Inspector General of Police (AP), Assam and Asstt. Inspector General of Police (T), Assam.
4. Being not satisfied with the information, the petitioner filed 1<sup>st</sup> appeal before the 1<sup>st</sup> Appellate Authority, O/o the Commandant 10<sup>th</sup> APBN, Kahilipara, Guwahati on 1.11.2021
5. He then filed complaint petition as per section 18 of the RTI Act, 2005 before the Commission on 15.11.2021. Accordingly the matter was taken up for hearing.
6. The Public Authority is represented by SPIO Sri Sunil Chandra Sarma, APS, Asstt. Commandant 10<sup>th</sup> APBN and he is accompanied by Sri Shiladitya Chetia, IPS, Commandant, 10<sup>th</sup> APBN.
7. The petitioner said that the information was denied to him under Section 24(4), but he mentions that 24(4) though applies to such security and intelligence organisation excludes the allegation of corruption and human right violation. In this particular case, the petitioner intimated that keeping a cow, construction of cow shed without proper documentation, selling of cow's milk are corruption and wastage of taxpayers money. Keeping cows and misuse of government resources are contrary to the basic intention of the government order which strictly relates to the security and intelligence of the organisation.
8. The Commission on the basis of the allegation of corruption in construction of cattle shed, alleged corruption in detailment of manpower and usage of government resources, would like to examine the applicability of Section 24(4) of the RTI Act:

*Section 24(4) of the RTI Act Quote Nothing contained in this Act shall apply to such intelligence and security organisations, being organisations by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify: Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub section: Provided further that in the case of information sought for is in*

*respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and, not withstanding anything contained in Section 7, such information shall be provided within forty five days from the date of the receipt of request. Unquote*

9. The Commission would like to refer to the recent Supreme Court judgment in overruling the judgment of Bombay High Court decision on applicability of POCSO Act on the plea that there was no skin-to-skin contact and interpretation of the Supreme Court that in an Act passed by any authority, the intent not the contend is the main force in interpretation particularly in Act/Rules. In this case, in drawing analogy with the Honourable Supreme Court order would like to comment that the intention of the Government order in exempting the Battalion from the purview of RTI Act vide Section 24(4) is on the ground of intelligence and security not on the ground of alleged corruption, wastage of government resources and misuse of manpower.
10. Further the Commission would like to refer to Supreme Court in **Vijay Dheer Versus State Information Commission, Punjab & Ors. (LNIND 2013 PNH 2263)** which held that *Quote* The object and reasons of RTI Act recite that the provisions of RTI Act are to ensure maximum disclosure and minimum exemptions consistent with the constitutional provisions and to provide for an effective mechanism for access to an information and disclosure by authorities. Still further RTI Act has been enacted in order to promote transparency and accountability in the working of every public authority. The State Information Commission while passing the impugned order has attempted to strike a balance between public interest as also the privacy of the individual concerned. The Public Information Officer concerned has been directed to provide such part of the information sought by Respondent No. 3 which primarily relates to the mode of appointment and promotion of the Petitioner to a public post. Impugned order has been passed on valid and cogent reasoning and conforms to the scheme of disclosure under RTI Act. No basis found that would warrant interference with the same- Petition dismissed. *Unquote.*
11. After careful examination of the points discussed above, the Commission is of the opinion that information sought by the petitioner is on the serious allegation of corruption, misuse of government resources and ensuring transparency in public functions.  
Further it will in no way is going to compromise the security and the intelligence of the Battalion and invite exemption u/s 24(4) of the RTI Act, 2005.
12. The Commission considers it fit case to be considered as complaint u/s 18(2) and 18(3) of the RTI Act, 2005. Hence, the Commission as per Code of Civil Procedure 1908 summons the SPIO/Assistant Commandant Sri Sunil Chandra Sarma, APS, 10<sup>th</sup> APBN to record written evidence on oath.
13. Fix next date of hearing.

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

Authenticated true copy.

Secretary & Registrar  
Assam Information Commission

Copy to:

1. The SPIO/Asstt. Commandant, Office of the Commandant, 10<sup>th</sup> Assam Police Battalion, Kahilipara, Guwahati 34 for information. He is to remain present on the next date of hearing.
2. The petitioner Sri Joydeb Das, S/o Late Karunamoy Das, House No.16, Ambari Fatashil, Kushal Konwar Road, Near Mayur Krishna Cinema Hall, Guwahati 25 Assam for information. He is to remain present on the next date of hearing.
3. Computer Section for uploading in the Website.
4. Office File.
5. Order Book.

Secretary & Registrar  
Assam Information Commission