

OFFICE OF THE
ASSAM INFORMATION COMMISSION

JONAKEE COMPLEX, SHILPGRAM ROAD, PANJABARI, GUWAHATI- 781037

Phone : (0361) 2332704, 2337900, 2331193 :: Fax : 2332704 :: email : secretary.sicassam@gmail.com

Case No. : SIC/KPM 67/2022
Complainant/ Appellant : Sri Joydeb Das
Respondent : SPIO, Real Estate Regulatory Authority,
Khanapara, Guwahati
Date of Hearing : 10/03/2022
Complaint/ Second : Dr. A.P.Rout,
Appeal heard by : State Chief Information Commissioner, Assam

O R D E R
10/03/2022

1. The petitioner Sri Joydeb Das has filed one RTI petition before the Public Information Officer, Real Estate Regulatory Authority, Paribahan Bhawan on 4.1.2022 seeking following information:
 - (a) Please furnish a copy of sanctioning post of consultant be given along with copy of selection of present consultant given with a copy of educational qualification.
 - (b) Please furnish a copy of Government order on re appointment of retired Government servant given.
 - (c) Please furnish name of the person appointed on sanctioned post along with a copy of advertisement, selection process and copy of appointment letter during the period 1st January 2020 to till date.
 - (d) Please furnish a copy of pay scale fixed by the Department of Finance for on sanction contingency post.
2. The SPIO of Real Estate Regulatory Authority (RERA), Guwahati furnished the sought for information to the petitioner on 3.2.2022.
3. On not being satisfied with the information , the petitioner filed a complaint petition u/s 18(1) of the RTI Act,2005 before the Commission on 14.2.2022 and accordingly the matter was taken up for hearing.
4. On 8.3.2022 both the petitioner and SPIO Mrs Kanchan Mahanta were present. The petitioner has prayed before the Commission to convert his complaint petition into 2nd appeal petition.
5. The SPIO was present at the hearing but she was not prepared with full information, so the Commission decided to fix new date of hearing verbally for 10.3.2022.

Accordingly, the matter was taken up for hearing.

6. The petitioner presenting a copy of the RERA Act,2016 stated that the SPIO furnished him misleading information.

The SPIO has wrongly quoted Rule no.21 and 22 of the Real Estate (Regulation and Development) Act,2016 in appointment of consultant *quote*

21. The Authority shall consist of a Chairperson and not less than two whole time Members to be appointed by the appropriate Government.

22. The Chairperson and other Members of the Authority shall be appointed by the appropriate Government on the recommendations of a Selection Committee consisting of the Chief Justice of the High Court or his nominee, the Secretary of the Department dealing with Housing and the Law Secretary, in such manner as may be prescribed, from amongst persons having adequate knowledge of and professional experience of at-least twenty years in case of the Chairperson and fifteen years in the case of the Members in urban development, housing, real estate development, infrastructure, economics, technical experts from relevant fields, planning, law, commerce, accountancy,

industry, management, social service, public affairs or administration: Provided that a person who is, or has been, in the service of the State Government shall not be appointed as a Chairperson unless such person has held the post of Additional Secretary to the Central Government or any equivalent post in the Central Government or State Government: Provided further that a person who is, or has been, in the service of the State Government shall not be appointed as a member unless such person has held the post of Secretary to the State Government or any equivalent post in the State Government or Central Government. *Unquote.*

The rule as quoted above do not mention anything about appointment of consultant hence she furnished factually wrong information in contrary to the provisions of RTI Act, 2005.

Further copy of selection process and educational qualification certificate are also not provided intentionally.

7. The petitioner said that though the SPIO has furnished pay scale of the Chairperson, members and other ranks upto class IV and contingency levels. However, the copy of the sanction of the finance department for contingency posts is not provided.
8. The SPIO even after being allowed sufficient time stated that the office has not provided her required information and that is why she is unable to furnish the information to the petitioner.
9. At the hearing, though the SPIO wanted to show the note sheet on correspondence in obtaining the information regarding point no.1 of the RTI petition, the Commission does not want to get into the administrative matters of the Authority.

However, the Commission will confine to the provision of Section 20 of the RTI Act, which quote as follows:

Penalties.—

(1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees: Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him: Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

10. Since the Commission thinks it to be a fit case which entails imposition of penalty u/s 20 of the RTI Act,2005.

It would like to seek an explanation from the SPIO why no penalty to be imposed for not furnishing the information and furnishing incorrect information.

Explanation if any should reach within 15 days at the Secretary of this Commission.

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

Authenticated true copy.

Sd/-
Secretary & Registrar
Assam Information Commission

Memo No. SIC/KPM 67/2022

Dtd. 10.3.2022

Copy to:

1. Mrs Kanchan Mahanta, SPIO , O/o the Real Estate Regulatory Authority, Assam, Jawaharnagar, Khanapara, Guwahati 22 for information and necessary action as ordered above.
2. The petitioner Sri Joydeb Das, S/O Lt. Karunamoy Das, H.No.16, Kushal Konwar Road, Near Mayur Krishna Cinema Hall, Ambari Fatashil, Guwahati 25 for information.
3. Computer Section for uploading in the Website.
4. Office File.
5. Order Book.

Secretary & Registrar
Assam Information Commission