

Case No. : SIC/KP(M).20/2021
Complainant/ Appellant : Shri Pranab Jyoti Barman
Respondent : The SPIO, O/o the Director of Elementary Education,
Kahilipara, Guwahati-781019, Assam.
Date of Hearing : 17-03-2021
Complaint/ Second
Appeal heard by : Shri Samudra G. Kashyap.
State Information Commissioner, Assam.

O R D E R
17-03-2021

1. The appellant Shri Pranab Jyoti Barman is present.
2. Dr. Rajiv Kumar Jha, SPIO and Deputy Director, Elementary Education, Assam, is present. He is accompanied by Shri Hema Chandra Saikia, Deputy Director, Elementary Education, Assam.
3. From perusal of records it is seen that the appellant Shri Pranab Jyoti Barman had submitted one RTI petition to the SPIO, Director of Elementary Education, Assam, way back on 06.04.2017. He had asked three questions in reference to a letter which he had written to the Directorate on 12.11.2016, including action taken on his above-mentioned letter. While he apparently received no response to it, he had neither preferred a 1st Appeal nor a 2nd Appeal on his RTI petition of 06.04.2017. Going by the provisions of the Act the said petition has lost its validity as far as the time frame is concerned.
4. On 09.09.2020, the appellant Shri Pranab Jyoti Barman submitted one RTI application to the PIO, O/o the Directorate of Elementary Education, Assam, Guwahati with the same said questions which he had asked in his previous above-mentioned RTI petition. Additionally he also referred to three orders of three different courts which are apparently relevant to his original letter dated 12.11.2016.
5. In response to his RTI application dated 09.09.2020, the SPIO vide letter No. DEE/RTI/74/2020/10 dated 28.10.2020 provided him pointwise information against his RTI queries. Not satisfied with the response, the appellant Shri Pranab Jyoti Barman submitted an Appeal before the FAA, Directorate of Elementary Education, Assam. Following a hearing held on 13.11.2020, the FAA directed the Branch Officer and deemed PIO to obtain response from the District Elementary Education Officer, Nalbari, pertaining to certain informations which were apparently held by him and was asked to provide the same within 15 (fifteen) days to the petitioner. The order passed during the hearing also put on record about the undue delay in response from the District Elementary Education Officer, Nalbari.
6. On 02.01.2021, the SPIO and Deputy Director, Directorate of Elementary Education, Assam vide letter No. DEE/RTI/74/2020/23 informed the appellant Shri Pranab Jyoti Barman that the information sought by the appellant does not fall under the various categories of "information" as defined by Section 2(f) of the RTI Act, 2005. But despite that he was provided a set of information in pursuance of the decision taken in the hearing on the 1st Appeal held on 25.11.2020.
7. Despite that, the appellant Shri Pranab Jyoti Barman, on 11.01.2021 preferred a 2nd Appeal before this Commission stating that he was not satisfied with the informations provided to him by the Public Authority vide letter No. DEE/RTI/74/2020/23 dated 02.01.2021.

8. From perusal of records and the written statement submitted by the Director of Elementary Education, Assam, and FAA it is seen that the basic information sought by the appellant Shri Pranab Jyoti Barman had been furnished. But the question remains as to what action the Directorate had taken on a letter which the appellant Shri Pranab Jyoti Barman had submitted to the Directorate on 12.11.2016. Though it does not come under the purview of the three queries which the appellant Sri Pranab Jyoti Barman had made in his RTI application dated 09.09.2020, up to the Public Authority to satisfy the appellant on that aspect on which the Commission has no jurisdiction to pass any order or direction. The Commission however puts on record that though the earlier RTI application of the appellant Shri Pranab Jyoti Barman dated 06.04.2017 had lost its relevance because of non-pursuance by the petitioner himself, the fact remains that the Public Authority had failed to respond to the RTI application for a period of more than three years. **The Director of Elementary Education is hereby directed to look into this aspect of non-response to an RTI matter by officials under his/her jurisdiction, which amounts to denial of exercise of a citizen's right to information under the RTI Act, 2005.**
9. The appellant Shri Pranab Jyoti Barman during today's hearing has complained that his RTI application dated 09.09.2020 was not responded to by the SPIO according to the time frame laid by the RTI Act, 2005. Responding to this, the SPIO stated that certain officials handling the relevant information had suffered from COVID-19 because of which some delay had occurred in responding to the RTI application. The fact remain that the pandemic had affected normal work in Public Authorities even when one single individual is affected by the disease.
10. In view of the above this 2nd Appeal is hereby disposed of.

Sd/-
(Samudra G. Kashyap)
State Information Commissioner,
Assam.

Authenticated true copy.

Sd/-
Secretary & Registrar
Assam Information Commission

Memo No. SIC/KP(M).20/2021

Dated: 17-03-2021

Copy to:

1. The SPIO, O/o the Director of Elementary Education, Kahilipara Guwahati-781019, Assam, for information.
2. The First Appellate Authority/ Director of Elementary Education, Kahilipara Guwahati-781019 Assam, for information and necessary action.
3. The petitioner, Shri Pranab Jyoti Barman, S/o. Dr. Pramode Ch. Barman, R/o Rukmini Nagar, Namghar Path, H/No.31, Dispur, Guwahati-781006 for information.
4. Computer section for uploading in the website.
5. Office File.
6. Order Book.

Secretary & Registrar
Assam Information Commission