

CENTRAL INFORMATION COMMISSION

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Decision No. CIC/SG/A/2011/002530/16029/Adjunct-I

Appeal No. CIC/SG/A/2011/002530

Relevant facts emerging from the Appeal:

- Appellant** : Mr. Akshay Pant
South Point,
Shadipur Post Office,
Port Blair - 744106
- Respondent (1)** : Mr. S. T. Nair
Public Information Officer
UT of Andaman Nicobar
A & N Administration
Social Welfare Department
Goal Ghar, Port Blair
Andam & Nicobar Island
- Respondent (2)** : Mr. A. S. Dagar
Secretary
Social Welfare Department
Andaman Nicobar Administration
Port Blair
Andam & Nicobar Island
- RTI application filed on : 04/03/2011
PIO replied on : 13/06/2011
First Appeal filed on : 18/04/2011
First Appellate Authority order of : 30/05/2011
Second Appeal received on : 12/09/2011

The information sought: The Appellant wants the entire file noting in regard to appointment of Presenting officer & Inquiry officer, copy of Complaint letters received in the Directorate of Social Welfare.

1. Please provide entire file noting in regard to appointment of Shri. P.C James as inquiry officer and Presenting Officer in the department cases.
2. Please provide entire noting in regard appointment of Miss. Devi as Inquiry Officer Presenting Officer in department cases.
3. Please provide entire file noting in regard to appointment of Shri. A.K. Biswas as Inquiry Officer and Presenting Officer in the department cases.
4. Please provide copy of complaint letter received in the Directorate of Social Welfare and the same investigated by the 'Vigilance Officer of Directorate of Social Welfare, Miss. Rita Devi.
5. Please provide entire file noting in regard to action taken upon the complaints investigated by the Vigilance Officer, of Directorate of Social Welfare, Miss. Rita Devi.
6. Please provide a copy of report submitted to the concerned for taking action in regard to the complaints investigated by the Vigilance Officer by the Directorate of Social Welfare, Miss. Rita Devi.

7. Please provide copy of complaint letters received in the Directorate of Social Welfare and the same investigated by the Vigilance Officer of Directorate of Social Welfare, Shri. R.K. Majhi & Smti. Vijayamma.
8. Please provide entire file noting in regard to action taken upon the complaint letters investigated by the Vigilance Officer, of Directorate of Social Welfare, Shri. R.K. Majhi & Smti. Vijayamma.
9. Please provide a copy of report submitted to the concerned for taking action in regard to the complaint letters investigated by the Vigilance Officer of the Directorate of Social Welfare, Shri. R.K. Majhi & Smt. Vijayamma.

The PIO reply:

Information provided on query 1 to 3. With regard to the other queries it was stated 'Not Specified'.

Grounds for the First Appeal:

The appellants have not received any response from the PIO.

Order of the First Appellate Authority (FAA):

"The Appellant Shri Akshay Pant Stated that the information furnished by PIO/Director of Social Welfare in respect of SL. No. 01 to 09 vide his application dated 04.03.2011 is incomplete.

APIO stated that a reference was sent to the appellant Shri Akshay Pant asking him to deposit Rs. 20/- per page for the documents which he is asking under RTI Act. So far a sum of Rs. 20/- has not been deposited by the appellant. That the information would be supplied when he would deposit Rs. 20/- Appellant Shri Akshay Pant is advised to deposit Rs.20/- in the office of the PIO/Directorate of Social Welfare and collect the information."

Ground of the Second Appeal:

The applicant is not satisfied with the PIO reply and unsatisfactory order was passed by the First Appellate Authority. Despite paying the additional fee, information not provided for query 4 to 9. The appellant had also filed a compliant with the FAA on 20/06/2011. At the time of hearing with FAA, APIO Mr. Majhi did not mention that information regarding points 4 to 9 would not be supplied.

Relevant Facts emerging during Hearing on 30 November 2011:

The following were present:

Appellant: Mr. Akshay Pant on video conference from NIC-Port Blair Studio;

Respondent: Absent;

"The appellant states that despite paying the additional fee and the order of the FAA he has not received any information with respect to queries 4 to 9. There is no explanation on record from the PIO for not providing information regarding queries 4 to 9. The Appellant has also filed a complaint with the First Appellate Authority (FAA) on 20/06/2011 complaining that the complete information has not been supplied to him.

It appears to the Commission that the PIO has not provided the complete information without any reasons and the Appellant has been unnecessarily harassed in to filing the second and not getting the information. The Commission therefore under its powers under Section 19(8)(b) of the RTI Act directs the Public Authority to pay a compensation of Rs.3000/- to the Appellant for the loss and detriment suffered by him in getting the information late and pursuing the second appeal."

Commission's Decision 30 November 2011:

The Appeal was allowed.

“The PIO is directed to provide the complete information on queries 04 to 09 to the Appellant before 20 December 2011. If any of the information is not available on the records this should be stated.

The PIO is also directed to ensure that a cheque of Rs.3000/- as compensation is sent to the Appellant before 30 January 2012.

The issue before the Commission is of not supplying the complete, required information by the PIO within 30 days as required by the law.

From the facts before the Commission it appears that the PIO is guilty of not furnishing complete information within the time specified under sub-section (1) of Section 7 as per the requirement of the RTI Act. It appears that the PIO's actions attract the penal provisions of Section 20 (1). A showcause notice is being issued to him, and he is directed give his reasons to the Commission to show cause why penalty should not be levied on him.

He will present himself before the Commission at the NIC Studio, Port Blair on **09 January 2012 at 4.30pm** to showcause why penalty under Section 20(1) should not be imposed on him and disciplinary action should not be recommended against him as per Section 20(2) of the RTI Act. If he wishes to he may send his written submissions to the Commission by email before 30 December 2011 at rtimonitoring@gmail.com. He will also email the proof of having given the information to the appellant.”

Relevant Facts emerging during Hearing on 09 January 2012:

The following were present:

Respondent: Mr. S. T. Nair, PIO & Assistant Director (Admin); Mr. R. K. Majhi, PIO & Superintendent (JH) and Ms. Reeta Devi, Welfare Office (Women);

“The respondent states that the information on points 04 to 09 has been sent to the Appellant as per the order of the commission on 07/01/2012. Mr. Majhi and Ms. Reeta first stated that there was confusion about replying since notification had been issued making three PIOs instead of one. The Commission asked them the date on which such a notification was issued. They stated that such an order was passed in October 2011. The Commission then pointed out that the FAA's order stating that the complete information should be provided was issued on 30/05/2011. The Commission also noted that at the Appellate Authority's hearing APIO Superintendent(JH) Mr. Majhi was present. The three respondents then claimed that they were confused about what information was to be supplied on queries 04 to 09. The Commission then pointed out that no such mention had been made in the order of the First Appellate Authority. It appears that the respondents are not being very candid about the statements being made before the Commission. The Commission then asked them who amongst them was responsible for obeying the order of the FAA since the penalty under Section 20(1) of the RTI Act would be applied to the person responsible. Mr. Majhi stated that the person responsible for not implementing the order of the FAA was the then PIO Mr. S. K. Halder the Director of Social Welfare who has now been transferred to Industries Department.

The Commission has seen the written submissions sent by Mr. Nair present PIO by email today but does not find any satisfactory answer as to why the FAA's order was not complied with. The FAA's order had only stated that the applicant must pay Rs.20/- as additional fee to get the information but did not mention that there was any lack of clarity about the information being sought. The excuse that there was lack of clarity on query 04 to 09 clearly appears to be an afterthought. The Commission notes that the showcause notice had been issued to the PIO and in the instant case the then PIO Mr. S. K. Halder should have appeared for the showcause. Instead three government officers are wasting their time and the Commission's time by appearing in this showcause hearing. The Commission directs Mr. S. K. Halder, Mr. Majhi and any other officer who may be responsible to appear for the showcause hearing to

showcause why penalty under Section 20(1) of the RTI act should not be imposed on them for not supplying the complete information sought by the Appellant in query 04 to 09 on **30 January 2012 at 05.00PM at NIC-Port Blair Studio.**

Adjunct Decision dated 09 January 2012:

“The Showcause hearing will be held on **30 January 2012 at 05.00PM** at NIC-Studio at Port Blair Mr. S. K. Haldar, Mr. Majhi and any other officer identified by the PIO Mr. Nair will present themselves at the NIC-Studio to showcause why penalty under Section 20(1) should not be imposed on them.”

Relevant Facts emerging during the showcause hearing on 30 January 2012:

The following were present:

Appellant: Mr. Akshay Pant on video conference from NIC-Port Blair Studio;

Respondent: Mr. S. K. Haldar the then Director presently General Manager (District Industries Center), Industries Department; Mr. R. K. Majhi, PIO & Superintendent (JH) on video conference from NIC-Port Blair Studio;

Mr. Haldar claims he had sought the assistance of Mr. Majhi and Ms. Rita Devi to provide the information and the responsibility for not providing the information rests with them. Mr. Majhi states that he was not responsible for providing the information. Mr. Majhi also states that he could not understand the RTI application. This is very curious since the order of the FAA does not make any mention that any query was not clear. In view of this the Commission is asking the First Appellate Authority Mr. A. S. Dagar, Secretary Social Welfare to inquire into this matter and fix the responsibility on the officers who are responsible for the delay. Mr. Dagar will send a report after hearing all the officers and send it to the Commission before 10 March 2012. The Commission will then take further action in this matter.

Adjunct Decision:

The Commission directs Mr. A. S. Dagar, Secretary Social Welfare to inquire into the matter and send a report fixing responsibility to the Commission as directed above before 10 March 2012.

This decision is announced in open chamber.

Notice of this decision be given free of cost to the parties.

Any information in compliance with this Order will be provided free of cost as per Section 7(6) of RTI Act.

Shailesh Gandhi
Information Commissioner
30 January 2012

(In any correspondence on this decision, mention the complete decision number. (BK))