

MEGHALAYA INFORMATION COMMISSION, SHILLONG

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Case. No. MIC/Appeal/41/2008/15

Shri Mark J. West,

- Appellant

-Vrs-

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| <ol style="list-style-type: none">1. Shri A.Sun, Inspector of Schools, East Khasi Hills2. Secretary, Managing Committee St. John Bosco Boys' Higher Secondary School, Sohra.3. Director, Higher & Technical Education, Govt. of Meghalaya | Respondents |
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ORDER

23-7-2008: The appellant in this case is Shri Mark J. West, Ex-Assistant Teacher, St. John Bosco Boys' Higher Secondary School, Sohra. He moved this appeal before this Commission on 2nd July, 2008 aggrieved by failure on the part of the First Appellate Authority viz., the Director of Higher & Technical Education, Govt. of Meghalaya, Shillong and respondent No.3 to dispose of his appeal. A brief history of the facts leading to the filing of the second appeal are as follows:

(i) The appellant had requested for information U/S 6 of the RTI Act to the respondent No.1 viz., the Inspector of Schools, East Khasi Hills, Shillong vide letter No. NIL dated 28-3-2008. The information sought for relates to non-payment of arrears due to him on account of the merger of 50% DA with the pay during the period he was in service with St. John Bosco Boys' Higher Secondary School, Sohra as the Assistant Teacher of the School.

The respondent No.1 viz., the Inspector of Schools, East Khasi Hills, Shillong received his application on 28-3-2008 but retained it in his custody till 23-4-2008. On 23-4-2008 vide No. IS/RTI/2006-07/1006 he sent the RTI application to the respondent No.2 viz., the Secretary, Managing Committee, St. John Bosco Boys' Higher Secondary School, Sohra with a request **"to take action accordingly"**. It appears that the respondent No.2 viz., the Secretary, Managing Committee, St. John Bosco Boys' Higher Secondary School, Sohra treated the letter as a call for the relevant materials from the School and furnished the materials information requested on 2nd May, 2008. No actions have been taken on the materials received from the respondent No.2 by the respondent No.1 at that time. Meanwhile, the appellant preferred the First Appeal before the respondent No.3 viz., the First Appellate Authority and Directorate Higher & Technical Education, Govt. of Meghalaya, Shillong on 28-5-2008. The First Appellate Authority failed to dispose the appeal within the period of 30 days as provided U/S 19(6) of the RTI Act. Aggrieved by inability on the part of the First Appellate Authority to dispose the appeal in time, the

appellant filed the instant appeal before this Commission on 2nd July, 2008 with the following prayers:

- (i) to cause immediate access to the required information as per Section 19(8)(i) of the RTI Act.
- (ii) to impose appropriate penalties on the PIOs
- (iii) to award compensation for inordinate delay in supplying the information which had caused mental suffering, non-recoverable loss and irreparable damages to the appellant.
- (iv) to invoke action U/S 7(1) of the RTI Act for immediate supply of the information.

The issues for decision by the Commission are therefore, as follows:

- (a) whether the information should be furnished to the appellant as requested?
- (b) whether delay has occurred and penalties be imposed on the PIOs?
- (c) whether compensation should be awarded to the appellant?

The Commission heard the appellant and all the respondents in person on 23-7-2008. On detail examination of documents made available before the Commission and the oral submission made by the respondents, the Commission made the following observations:

1. The following information were sought by the appellant vide his application dated 28-3-2008 addressed to the respondent No.1 viz.,
 - (i) Am I eligible to avail of the benefits of the 50% D.A. merger for the months I was still in service in St. John Bosco Boys' Secondary School, Sohra?
 - (ii) If eligible, why when and how shall I receive it. If already released, what was the reason for delay and for not releasing the due amount to me?
 - (iii) What is the exact amount of arrears due to me together with details of calculation of the arrear?
 - (iv) Name of the authority, official, staff responsible for calculation of my arrear, and for disbursement of the same.
 - (v) If not eligible to avail of the benefits of the D.A. merger, what is the reason for this?
 - (vi) In case of my being eligible, and still the due arrears has not yet been calculated, released or disbursed, what action is proposed to be taken on the authority/official/staff concerned under the relevant rules and procedures of the department?

The term information is defined U/S 2(f) of the RTI Act, 2005. The Act includes opinions, advices, press-releases, circulars etc. These are specific pieces of information held by and available with the public authority and not information that is to be deducted or inferred or worked out by the PIO. The Act does not envisage answering queries or clarifications of the requester.

The Commission is of the view that the information sought for by the appellant are in the form of queries/clarifications rather than the information as contemplated under RTI Act. That being the case, the Commission is not in a position to direct the respondents to provide access to information sought for by the complainant.

2. The application for information was addressed to and received by respondent No.1 viz., the Inspector of Schools, East Khasi Hills, Shillong on 28-3-2008. On 23-4-2008 i.e. after a period of 26 days the Inspector of Schools, East Khasi Hills sent the application to the respondent No.2 viz., the Secretary, Managing Committee, St. John Bosco Boys' Higher Secondary School, Sohra requesting him to take necessary action accordingly. The respondent No.2 responded to the above letter by sending some material for reply on 2-5-2008 i.e. after a period of 8 days, to respondent No.1 for providing the information to the appellant. In accordance with the provisions of Section 6(3) of the RTI Act, the respondent No.1 to whom the application was addressed should have transferred the application to the PIO concerned i.e the respondent No.2. But in his letter No. IS/RTI/2006-07/1006 dated 23-4-2008 the respondent No.1 had simply asked the respondent No.2 to take action accordingly without indicating that it is a transfer application U/S 6(3) of the RTI Act, 2005. The respondent No. 2 is therefore correct in presuming that the letter dated 23-5-2008 is an official letter calling from him materials for information to be furnished by respondent No.1 to the appellant, as the respondent No.1 did not transfer the application within a period of 5 days as provided U/S 6(3) of the Law but after 26 days, and also because of the fact that the letter did not addressed to him as PIO under the RTI Act. The fact that the respondent No.2 had furnished the material within a period of 8 days lends support to the contention that the respondent No.2 has taken steps expeditiously. On the other hand, the respondent No.1 on receipt of the above materials from the respondent No.2 neither made any order denying the information nor furnished the information to the appellant. In fact, the respondent No.1 viz., the Inspector of Schools, East Khasi Hills, Shillong in his submission state that he is under the impression that he has 30 days time available to call for information from the School concerned and that there is no intention on his part to deny the information to the appellant. The RTI Act has been implemented in the State for the last two and half years; it is therefore, surprising that senior officer of the level of Inspector of Schools should be uninformed of the provisions of the Law, being himself a PIO under the RTI Act.

The application was received by the PIO viz., the respondent No.1 on 28-3-2008, and on 28-5-2008 the first appeal was preferred by the appellant to the D.A.A. Hence, from 28-3-2008 the date of the first

application for information received to 28-5-2008 the date of the first appeal received there are 60 days. Deducting the statutory period of 30 days available with the respondent No.1-PIO for furnishing the information, there is an inexcusable delay of 30 days. Shri A.Sun, Inspector of Schools, East Khasi Hills, Shillong and respondent No.1 is personally liable for the above delay of 30 days. Shri A.Sun, could not furnished any satisfactory ground for the delay before this Commission and therefore, is personally liable for a **penalty @ Rs 250/- per day for 30 days amounting to Rs.7500/-** (Rupees seven thousand five hundred) only.

3. The first appeal petition was received by the D.A.A. – respondent No.3 on 29-5-2008 U/S 19(6) of the RTI Act, the first appellate authority has a period of 30 days to dispose of the first appeal or within such extended period not extending 45 days from the date of filing of the appeal for reasons to be recorded in writing. Therefore the first appellate authority should have disposed of the appeal on or before 29-6-2008 or 13th July, 2008 allowing the extended period. The second appeal was preferred before the Commission on 2nd July, 2008 without waiting for disposal of the appeal by the first appellate authority. Though there has been no appreciable delay beyond the allowable statutory period for disposal of appeal by the first appellate authority, the D.A.A. – respondent No.3 should have been disposed of the appeal in time. The Commission therefore, does not agree that inordinate delay has been caused by the public authority to justify award of compensation.

In view of the above, the Commission hereby imposed a penalty of Rs.7500/- (Rupees seven thousand five hundred) only on the PIO viz., Shri A.Sun, Inspector of Schools, East Khasi Hills, Shillong for the inexcusable delay in disposing the information request made by the appellant. He shall remit the amount under the Head of Account **“0070-Other Administrative Services etc., 60-Other Services, 118-Receipt under the Right to Information Act, 2005 Volume –I as under:- (02) Fees & Fines for the Penalty Amount Imposed by the Commission”** within a period of 30 days from the date of receipt of this Order, with intimation to this Commission.

The appeal is thus disposed of.

(G.P.Wahlang)
C.I.C.

Copy forwarded to:-

1. The Director, Higher & Technical Education, Govt. of Meghalaya, Shillong.
2. The PIO-Inspector of Schools, East Khasi Hills, Shillong, Govt. of Meghalaya, Shillong He is to deposit the amount of penalty to the Treasury under the Head of Account **“0070-Other Administrative Services etc.,60-Other Services, 118-Receipt under the Right to Information Act, 2005 Volume –I as under:- (02) Fees & Fines for the Penalty Amount Imposed by the Commission”** with intimation to this Commission.
3. The Secretary, Manaing Committee, St. John Bosco Boys’ Higher Secondary School, Sohra.
4. Shri Mark J.West, Sohra, C/o Andy Press, Rngi Rynjah, Shillong – 6, Phone No. 9862150910.

(P.T.Rani,)
Under Secretary,
State Information Meghalaya,
Meghalaya, Shillong.