

**MEGHALAYA STATE INFORMATION COMMISSION,  
SHILLONG**

...

**No. MIC/Appeal/18/2009/28.**

Bincy Thomas, C-17 A, DDA Flats, Munirka, New Delhi - Appellant

-Vrs-

(1) C.E.,(Roads), PWD, Meghalaya (DAA)  
(2) E.E., PWD (Roads) Nongpoh Division, Nongpoh (PIO) } Respondents

**20-4-2009**

**ORDER**

Both the Respondents are present in the Commission today. The Appellant is absent. The Respondent-PIO filed his show cause.

Heard the Respondent-DAA who submitted before the Commission that the first application for information dated 12-6-2008 was addressed by the Appellant to the P.I.O., c/o Joint Secretary, P.W.D. Govt. of Meghalaya, Barik Point, Shillong. The application was received on 19-6-2008 and was circulated vide letter No. PW/Admn/8/2006 dated 27-6-2008 to all concerned Heads of Public Authorities and PIOs including the E.E., P.W.D. (Roads), Nongpoh Division, Nongpoh, the Respondent-PIO of the instant case.

According to the Respondent-PIO, he received the application for information dated 27-6-2008 dispatched by Post by the Joint Secretary, P.W.D. Govt. of Meghalaya on 30-7-2008. And hardly a week of receipt of the application, that is, on 8-7-2008, he sent the information on item No. 1, 4, 5 & 8 to the Appellant. Meanwhile, on receipt of the direction from the First Appellate Authority viz., the Chief Engineer, P.W.D. (Roads) vide letter No. PW/CE/RD/20/2004/455 dated 14-11-2008, directing him to furnish complete information the Appellant, he has taken immediate action by sending complete information on 18-11-2008 vide his letter No. NGP/Esstt/C/32/05-06/264. Therefore, according to the Respondent-PIO he has responded to the Appellant with partial information immediately and

provided full information on the direction of the competent authority within 4(four) days of receipt of such Order of the First Appellate Authority.

Heard the First Appellate Authority who submitted that he received the Appeal petition on 4-11-2008 from the Appellant and had immediately given necessary direction to the Respondent-PIO to furnish full information vide his letter No.PW/CE/RD/20/2008/455 dated 14-11-2008 with due information to the Appellant of his above decision.

Now the issues for determination by this Commission are as follows:-

- (1) Whether full information was furnished by the Respondent-PIO in time?
- (2) Whether the Respondent-PIO is liable for penalty as prescribed under the Law?
- (3) Whether the Respondent-Appellate Authority had discharge his function under the Law?

1. From the facts available on record, this Commission is satisfied that the R.T.I. application dated 12-6-2008 was received by the addressee viz., the Joint Secretary, P.W.D. (Roads), Govt. of Meghalaya on 19-6-2008 and then circulated by the Public Authority to all other Public Authorities and PIOs on 27-6-2008 i.e. after a gap of 7(seven) days. Considering the fact that Saturday and Sunday are holidays in Meghalaya, the Public Authorities viz., the Joint Secretary, P.W.D. has transferred the R.T.I. application to the concerned Public Authorities and PIOs in time.

The Respondent-PIO has also produced documentary evidence to show that the transferred application was received by his office on 29-7-2008 and brought to his notice on 30-7-2008. Therefore, it appears that there has been a postal delay of more than a month, for the transferred application to be received by the Respondent-PIO. The claim of the Appellant that the R.T.I. application was received by the P.I.O. on 24-6-2008 was not based on evidence. In fact the postal acknowledgement appears to have been originated from the office of the Collector, Ri Bhoi District, Nongpoh; not from the Respondent-PIO.

The Respondent-PIO appeared to have responded immediately on receipt of the transferred application and furnished partial information on item No. 1, 4, 5 & 8. According to him, he has no information to provide on item No. 2 as he does not

- maintained any register for R.T.I. applications and he did not provide copies of the R.T.I. applications because he thought these are personal matters of the individual applicants. He also submitted that being a P.I.O. he does not have information on the First Appeals as he is not the First Appellate Authority so he thought it is not his duty to furnish them. However, on receipt of the direction from the First Appellate Authority vide letter No. PW/CE/RD/20/2008/455 dated 14-11-2008 and on collection of the relevant materials on the information he had provided full information to the Appellant vide letter No. NGP/Estt/C/32/05-06/2641 dated 18-11-2008. Hence on his own admission the Respondent-PIO did not furnish full information in time i.e within 30 days of receipt of the application.
2. According to the Respondent-PIO he had acted in good faith and also acted immediately on receipt of the direction from the First Appellate Authority. He is not therefore, liable for penalty under the R.T.I. Act. The delay in receipt of the application is beyond the control of the Respondent-P.I.O. It is however evident that the Respondent-PIO did not make any Order of denial of the remaining parts of the information which he should have done to enable the Appellant to make a proper appeal. He submitted that he has been P.I.O. only recently and had not been given exposure to the provisions of the Law by the Public Authority or the Govt. and so he did not know that he had to make an Order or communicate to the Appellant the reasons for not providing the remaining part of the information. Having considered the fact that he had acted very promptly in responding to the Appellant by providing partial information within a period of 8(eight) days on receipt of the transferred application and also of the fact that he acted within a period of 4(four) days to comply with the direction of the First Appellant Authority in furnishing information he had/collected and considering his lack of exposure of provision of the Law being newly designated as P.I.O. this Commission do not consider him liable for penalty but cautioned him to be more careful in dealing with the R.T.I. requests in future.
  3. The Commission observed that the Appellant had filed the First Appeal on 4-11-2008. Considering the fact that the Respondent-PIO had made a response with partial information on 6-8-2008, a gap almost 88 days exists between the response with partial information by the P.I.O. and the First Appeal made by the Appellant;

whereas the Law provides that such Appeal may be preferred within a period of 30 days. And, there is no justification for the delay in filing the Appeal. Though the First Appellate Authority did not make any formal Order, it is to his credit that a direction has been given to the Respondent-PIO to furnish full information. The Commission however, feels that the Respondent-Appellate Authority should have exercised of his powers as an Appellate Authority under the Law and pass necessary Orders rejecting the Appeal being time-barred or condoning the delay in filing the Appeal with reasons. The First Appellate Authority should take note of this.

Before parting with the case, the Commission required that the P.I.O. furnish again whatever information he has on item No. 2 & 3 of the original R.T.I. application to the Appellant immediately with copies to this Commission.

Case disposed off.

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

**Memo. No. MIC/Appeal/18/2009/28-A**  
Copy to:-

**Dated Shillong, the 20<sup>th</sup> April, 2009**

1. Chief Engineer (Roads), PWD, Meghalaya, Shillong.
2. Executive Engineer, PWD (Roads) Nongpoh Division, Ri Bhoi District, Nongpoh.
4. Bincy Thomas, C-17 A, DDA Flats, Munirka, New Delhi - 110067

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