

**MEGHALAYA STATE INFORMATION COMMISSION,
SHILLONG**

...

No. MIC/Appeal/27/2009/19,

Shri S.K.Singh, Barapathar, Shillong - Appellant

-Vrs-

(1) Director, Higher & Technical Education, Meghalaya (DAA) }
(2) Inspector of Schools, East Khasi Hills, Shillong (PIO) } Respondents

25-3-2009

ORDER

Respondent No. 2 viz., the Inspector of School, East Khasi Hills is present in the Commission today, the Appellant is, however, absent.

The Respondent-PIO filed a written statement in compliance to this Commission's Order dated 10-3-2009.

The facts of the instant appeal are as follows:

The Appellant vide his application dated 11-9-2008 made a request for information regarding the constitution of the Managing Committees of Madan Laban Nepali Secondary, Upper Primary & Lower Primary School, Shillong to the Respondent-PIO. The application along with the application fee of Rs.10/- has been duly received by the Respondent-PIO. In response to application for information the Respondent-PIO vide letter No.IS/ESTT/RTI/2008/8869 dated 3-10-2008 informed the Appellant that according to the Govt. Notification, the Headmaster, Madan Laban Nepali Secondary School has been designated as the PIO for providing all information pertaining to his institution under RTI and the Inspector of School has been designated as the First Appellate Authority under the R.T.I. Act. The Respondent-PIO therefore, directed the Appellant to submit his application to the Headmaster of the School who is the P.I.O.

Being aggrieved by the decision of the Respondent-PIO the Appellant has lodged a complaint with the D.A.A. viz., the Director, Higher & Technical Education,

Meghalaya vide his letter No.1108/SKS/RTI-05/PERS/147 dated 21-10-2008. The Respondent-DAA viz., the Director, Higher & Technical Education vide Order No.DHTE/MISC/5/2008/22 dated 20-11-2008 confirmed the decision of the Respondent-PIO and direct the Appellant to collect the information from the Headmaster of the School concerned in respect of the list of the Managing Committee of the School for the period prior to 31-8-2008. Regarding the proposed list of the Managing Committee after 31-8-2008, the D.A.A., directed the P.I.O. Headmaster of the School to furnish the information within 15 days from the date of receipt of the approval from the Inspector of School.

Not satisfied with the Order of the D.A.A. the Appellant has preferred the instant appeal before this Commission, against the Order of the Respondent-DAA.

Before considering the relevant issue pertaining to this case, the Commission observed that vide letter No. 1108/SKS/RTI-05/PERS/147 dated 21-10-2008 the present Appellant filed a complaint before the D.A.A. viz., the Director, Higher & Technical Education, Govt. of Meghalaya against the denial/refusal of information by the Respondent-PIO.

It is to be noted that under section 18(1) of the RTI Act, to receive and enquire into the complaints is solely the power and function of the State Information Commission (or the Central Information Commission). No other authority has been empowered by the Law to receive and enquire into complaints. Hence, by submitting a complaint before the D.A.A. the present Appellant has not acted in accordance with the provisions of the Law. And by hearing the complaint, the Respondent-D.A.A. & Director, Higher & Technical Education, Meghalaya has stepped into an area which is not within his legal jurisdiction under the RTI Act. His legal jurisdiction is to receive and hear appeals under section 19(1)(2) of the Act.

It appears that the Respondent-D.A.A. has treated the complaint petition filed before him as an Appeal petition. There is however, nothing on record to show that the Complainant has converted the complaint into an Appeal.

The above observation has been made to serve as guidance to both the Appellant/Complainant and the Respondent-D.A.A. with and advice to follow the correct procedure.

Coming to the subject matter of the Appeal, the issue before the Commission is whether a P.I.O. or D.A.A. can direct the applicant to file his application for information which was presented to them, to another P.I.O.?

The Inspector of School has been designated by the Govt. of Meghalaya, Department of Education as P.I.O. in respect of whatever information he holds in his office. He has also been designated as First Appellate Authority or D.A.A. for Appeals against the decisions of the P.I.O.s who are the Headmasters/Headmistresses of Secondary and Higher Secondary Schools in his District.

Under the RTI Act, the right to information means the right to information which is held by or under the control of the public authority (Sec 2(j)) and it is clear that information under the Law should be made accessible to the citizens by any authority who holds it or who controls or under whose custody it is. It may therefore, be possible that the same information is available with more than one public authorities and any one of them who holds information is bound to furnish it if an information request is made to him.

Since the Inspector of School, East Khasi Hills District, Shillong is a P.I.O. and at the same time he is the D.A.A. it does not mean that he can deny any information pertaining to any educational institution over which he functions as D.A.A. if the information concerning any of those institutions are also held by him. He has to discharge his function as PIO over the information held by him.

Secondly, the RTI Act does not prescribed a procedure whereby an applicant for information can be directed to submit his application to any particular P.I.O. especially within the same public authority. Section 6(3) make it very clear that even if an application for information has been made to any public authority/P.I.O. who does not hold the information but which is held by another public authority or the subject matter of which is most closely connected with the function of another public authority, even in such cases, the public authority who

receives the application shall transfer the application or such part of it as may be appropriate, to the other public authority and inform the applicant immediately. Therefore, the direction made by the Respondent-PIO and by the D.A.A.- Director, Higher & Technical Education, i.e. by the public authority is not in consonance with the provision of Law. Section 5(4)(5) of the RTI Act provided ample opportunity for dealing with a situation where an application is submitted to a P.I.O. but the information is held by another P.I.O. within the same public authority.

In the light of what has been discussed above, the Appeal is admitted. The Commission noted from the written statement filed by the Respondent-PIO that the information has been furnished in full to the Appellant on 21-3-2009 and duly received by him.

In view of the wrong approach followed by the Appellant and also by the Respondent-D.A.A. in the instant case, and in view of the fact that the information has already been provided to the Appellant, the Commission feels that no further intervention is called for; but only to caution both the parties to follow the correct procedure in future.

Appeal disposed off.

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

Memo. No. MIC/Appeal/27/2009/19-A Dated Shillong, the 25th March, 2009
Copy to:-

1. The Director, Higher & Technical Education, Govt. of Meghalaya, Shillong.
2. The Inspector of Schools, East Khasi Hills, Shillong.
3. Shri S.K.Singh, C/o Limbu Compound Barapathar, Shillong – 2.

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