

**MEGHALAYA STATE INFORMATION COMMISSION,  
SHILLONG**

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**No.MIC/Complaint/11/2009/8,**

Shri S.D.Marbaniang, MTDC Employees' Union, Polo Road, Shillong - Complainant

-Vrs-

Shri E.Dkhar, P.I.O., M.T.D.C., Polo Road, Shillong - Respondent

**ORDER**

**9-7-2009:** The complainant in this case is Shri S. D. Marbaniang of MTDC Employees' Union, Polo Road, Shillong. The case of the complainant is that he filed an RTI application before the PIO, MTDC, Polo Road, Shillong on 4-4-2009 and duly received by him on 6-4-2009. However, he did not receive the response or the information requested by him, till date. On 7-5-2009 he had preferred the first appeal before the M.D., MTDC, Shillong who is the appellate authority but his appeal was not responded till date. He therefore preferred the instant complaint before this Commission.

The RTI application was submitted before the PIO and received by him on 6-4-2009 the expiry of the statutory period of 30 days will be on 6-5-2009. Immediately on expiry of the statutory period of 30 days for the PIO to furnish the information, he preferred an appeal on 7-5-2009. The period of 30 days available with the appellate authority under the Law, to decide the appeal ends on 6-6-2009. It however, appears that without waiting to the maturity of the period of the first appeal he has approached the Commission by way of a complaint on 15<sup>th</sup> May, 2009. The Commission, therefore, did not take into account his appeal before the first appellate authority but has taken the petition as a complaint petition against the PIO. The matter was enquired into by the Commission and the Respondent-PIO was asked by this Commission vide Order dated 5-6-2009 to show cause through an appropriate affidavit why the requisite penalty under the Law should not be imposed upon him till furnishing of the information or Rs.25,000/- which ever is less. Vide affidavit dated 19-6-2009 the Respondent-PIO informed the Commission that the information was made ready for delivery and the complainant was informed vide letter No.MTDC/232/PER/RTI-A/2005/148 dated 12-5-2009 asking him to deposit Rs.58/- as the cost for copy. The above communication was duly received by the complainant on 21-5-2009. The complainant did not deposit the requisite of cost fee and therefore the information could not be delivered to him till date. The Respondent-PIO submitted that there was not refusal of information to the complainant.

The Commission noted that the RTI application was submitted before the Respondent-PIO and received by him on 6-4-2009, the statutory period of 30 days expired on 6-5-2009 and that there was a delay of 6 days w.e.f. 6-5-2009 to 12-5-2009 on which date he communicated the decision to the complainant.

The Respondent-PIO explained before the Commission that he was on Earned Leave from 27-4-2009 and he joined his office on 11-5-2009 and he immediately communicated the decision to the complainant on 12-5-2009. The Respondent-PIO also produced necessary evidence to show that he was actually on Earned Leave for 12 days as mentioned by him.

Since the Respondent-PIO was not officially working during the period he went on Earned Leave and there was no substitute in his place, the period of delay of 6 days cannot be considered as intentional delay or negligence on the part of the PIO. On the other hand, it is an unavoidable delay due to his absence from duties on leave. Therefore, the Respondent-PIO is not liable for penalty for delay of 6 days as mentioned above.

However, under the provision of Section 7(6) of the RTI Act, the Respondent-PIO shall furnish the information free of cost to the complainant within a period of 7 days time from the date of receive of this Order.

Case disposed off.

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

**Memo. No. MIC/Complaint/11/2009/8-A**

**Dated Shillong, the 9th July, 2009**

Copy forwarded to:-

1. Shri E.Dkhar, P.I.O., Meghalaya Tourism Development Corporation, Polo Road, Shillong.
2. Shri S.D.Marbaniang, General Secretary, MTDC Employees' Union, Polo Road, Shillong.

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