

**MEGHALAYA STATE INFORMATION COMMISSION,
SHILLONG**

...
No.MIC/Complaint/36/2009/10,

Mosterling Lyngdoh, Nongspung, East Khasi Hills - Complainant

-Vrs-

P.B.Warlaithma, Principal, Nongspung Higher Secondary School,
Nongspung, East Khasi Hills & P.I.O. - Respondent

9-7-2009

ORDER

The complainant in this case is Shri Mosterling Lyngdoh of Nongspung village East Khasi Hills.

The case of the complainant is that he filed an RTI application before the Respondent-PIO, Shri P.B.Warlaithma, Principal, Nongspung Higher Secondary School, East Khasi Hills and duly received by the Respondent-PIO on 9-12-2008. However, he did not receive the information nor any response from him even after the expiry of the statutory period of 30 days on 9-1-2009. Though he had waited for a longer period the PIO has failed to furnish him the information he requested. As a result, he filed the instant complaint before the Commission on 18-3-2009. Vide its Order dated 25-3-2009, the Commission had asked the Respondent-PIO to show cause why penalty @ Rs.250/- per day should not be imposed upon him w.e.f. 9-1-2009 till the date the information is furnished to the complainant subject to maximum amount of Rs.25,000/- which ever is less.

During the hearing of the case, the Respondent-PIO informed the Commission that all records of the school especially those dealing with appointment of teachers, salaries of teachers, utilization of salaries of teachers, grants-in-aid etc are maintained by the School Managing Committee and kept under the custody of the Secretary who is a non-official and that as PIO he has no access to those information as they are not under his custody.

The Respondent-PIO had been asked by the Commission to furnish whatever information are available with him and to indicate through an affidavit the type of information and the name or names of persons with whom the official records of the school are likely to be available. He was also asked to indicate in his affidavit the steps taken by him to requisition the information required from the then School Secretary.

On 25-5-2009 the Respondent-PIO with permission from the Commission, filed his affidavit accordingly in which he indicated the type of information available with him, the name of persons with whom the information requested are likely to be available and the steps taken by him to requisition the relevant information from the Ex-Secretary of the School, namely Shri Oscar Nongrum. The Commission observed that the PIO has failed to furnish information available with him to the complainant.

Understanding that the affairs of the school is not properly run inasmuch as records management is concerned, the Inspector of School, East Khasi Hills was asked by this Commission to enquire into the matter and to place a report with the Commission. The Inspector of School, East Khasi Hills, Smti T.Lyngdoh, vide her report dated 25-6-2009 informed the Commission that the Nongspung Higher Secondary School, East Khasi Hills is a private institution receiving grants-in-aid from the State Govt. in the form of maintenance grants-in-aid for its teachers and is therefore under the public authority of the Directorate of Higher & Technical Education, Govt. of Meghalaya, Shillong. That under the present system, such aided academic institutions are managed by a School Managing Committee approved by the State Govt. In some schools, the Principal of the School is the Secretary of the Managing Committee and in some other schools the Secretary of the Managing Committee is a non-official who holds office for a term of two to three years at the pleasure of the Managing Committees. In the instant case, the Secretary of the School Managing Committee for the period 2004 to 2008 is a non-official. The Inspector of School confirmed that the Ex-Secretary of the School Managing Committee did not handover the information and documents relating to the working of the Managing Committee. As a consequence the required information may not be available with the present incumbent or with the PIO. The over all effect is the delay in furnishing RTI information to the information seekers as it happened in this case. The Inspector of School however mentioned that most of the relevant information has been collected by her and could be made available to the complainant.

Having enquired into the matter, the Commission observed as follows:

- (1) That the PIO who is the Principal of the School has not been actively performing his duty as PIO. Out of 7 items of information requested, one information is exclusively available with him and under his custody viz., the names of the teachers who were serving in the school for a period 2004 to 2008; but he failed to furnish the information which is readily available with him. As a result, he renders him liable for penalty under the provision of the Law. The plea of the PIO-Principal that he did not furnish part information as he wanted to furnish the whole information is not sustainable as he did not hold in his custody the whole information.
- (2) The present system of management of private Secondary and Higher Secondary Schools and even Colleges in the State is not conducive to effective implementation of the RTI Act. The instant case has revealed that if the Secretaries of such institution are non-officials, the PIOs will face a genuine problem of receiving information from them when called and there is every likelihood that delay or denial of information will occur and the PIO can hardly do anything about it. Intervention at the level of the Inspectors of Schools normally occurred in appeal cases, being the first appellate authority. Involving them every time in enquiry in complaint cases, will hamper their

resources and efficiency. This is a very genuine problem which the Education Department is required to examine in detail and appropriate remedy provided.

Decision:

In view of the above observation, this Commission decided as follows:

- (1) The Respondent-PIO is awarded a penalty of Rs.3600/- (Rupees Three thousand six hundred) being 1/7th of the total maximum penalty in proportion to the item of information held by him and which he failed to pass on to complainant in time. He shall deposit the above amount within the period of 30 days through Shillong 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 (02) Fees & Fines for the Penalty Amount Imposed by the Commission,”** with intimation to this Commission.
- (2) The Inspector of School should furnish all the information received by her to the PIO within a period of one week from the date of this Order with intimation to this Commission.
- (3) The Respondent-PIO should furnish all the seven items of information including those received from the Inspector of School and the item that is available with him to the complainant within a period of 7 days from the date of receive of this Order with intimation to this Commission.
- (4) The Department of Education should examine the possibility of introducing an RTI friendly system in the management of such institutions by making all the Principals/Headmasters of such institutions Secretaries of the Managing Committees so that the management of records and information flow will be in tune with the spirit of RTI Act.

Case disposed off.

(G.P.Wahlang)

C.I.C.

Memo. No.MIC/Complaint/36/2009/10-A

Dated Shillong, the 9th July, 2009.

Copy to:-

- (1) The Commissioner & Secretary, Education Department, Govt. of Meghalaya.
- (2) Smti. T.Lyngdoh, Inspector of Schools, East Khasi Hills, Shillong.
- (3) P.B.Warlaithma, Principal, Nongspung Higher Secondary School, Nongspung, East Khasi Hills, Pin – 793121 (Phone – 9856644649).
- (4) Mosterling Lyngdoh, Nongspung, East Khasi Hills, Pin – 793121 (Phone – 9856588298).

(P.T.Rani)

Under Secretary,
Meghalaya State Information Commission,
Shillong.