

**MEGHALAYA STATE INFORMATION COMMISSION,
SHILLONG**

...

No.MIC/Complaint/Appeal/43/2009/10,

Shri Peter J. Lawai of Mawryngkneng, East Khasi Hills - Complainant

-Vrs-

(1) Deputy Commissioner, East Khasi Hills District (D.A.A.)
(2) Addl. Deputy Commissioner in-charge Revenue East Khasi (P.I.O) } Respondents

29-5-2009

ORDER

Vide its Order dated 12-5-2009 this Commission had asked the First Appellate Authority to dispose off the Appeal preferred by the Appellant within 15 days time from the date of that Order, failing which the Commission may have to register a Complaint case for denial of information to the Appellant.

In compliance to the Order the First Appellate Authority has already communicated to the Appellant/Complainant that he may collect the information he applied for on payment of the cost of copies etc vide letter No.L/14/6/(26/2005/Pt-III dated 20-5-2009.

The fact of the instant case is that the Appellant/Complainant, Shri Peter J. Lawai of Mawryngkneng Village, East Khasi Hills filed an R.T.I. application before the P.I.O., Deputy Commissioner (Revenue), East Khasi Hills on 20-1-2009, seeking certain information on matter pertaining to acquisition of land at Mawryngkneng Village for construction of a road. The P.I.O. vide letter No.L/14/6/(26/2005/108 dated 16-2-2009 i.e. on the 27th day from the date of receipt of the application, had responded to the Appellant/Complainant to collect information on payment of Rs.412/- only for copies. It appears that the Appellant/Complainant could not collect the copies immediately. However, vide subsequent letter

No.L/14/6/(26/2005/112 dated 27-2-2009 the P.I.O. again informed the Appellant/Complainant that the information cannot be furnished to him in view of the provision of Section 8(j) of the R.T.I. Act. Not satisfied with the refused of information by the P.I.O., the Appellant/Complainant preferred the First Appeal before the First Appellate Authority on 20-3-2009, i.e. within the statutory period for preferring such Appeal. Not receiving any decision of the First Appellate Authority on his Appeal within the statutory period of 30 days which expired on 20-4-2009, the Appellant/Complainant had preferred the instant Complainant before the Commission vide his application dated 4-5-2009.

Having perused of the fact of the case, the Commission observed as follows:

- (i) The refusal of information conveyed by the P.I.O. to the Complainant/Appellant vide letter No.L/14/6/(26/2005/112 dated 27-2-2009 took place after the expire of the statutory period of 30 days from the date of receipt of the first application for information. Under the R.T.I. Act whatever decision or re-decision which took place after expiry of 30 days cannot be considered as validly taken under the Law. Therefore, the denial of the information by the P.I.O. by claiming exemption under section 8(j) of the R.T.I. Act after the initial decision validly taken within the statutory period is not a valid decision in the instant case. However the latter decision does prevent the Appellant/Complainant from getting the information which he had requested and which he had initially been informed to collect.
- (ii) Secondly, the First Appellate Authority while performing his function under R.T.I. Act should treat the matter from a legal point of view as an Appeal and pass necessary Orders giving his decision and grounds for such decision on the subject matter of Appeal. It is on the basis of such reasoned decision taken by the First Appellate Authority that the Commission has to base its decision over the matter on a Second Appeal. In the instant case, the Respondent-D.A.A. without showing any reasoned decision setting aside of the decision of the Respondent-PIO has simply

asked the Complainant/Appellant to collect information. That too after the matter has come before the Commission.

- (iii) The Commission also observed that the belated decision taken by the P.I.O. and communicated vide his letter dated 27-2-2009 was based on some objection received from some persons who are not third party to the information under consideration. There is nothing under the Law to justify such action by the P.I.O. Whatever decision is made, claiming exemption under Section 8(j) of the R.T.I. Act should be based pure on legal consideration and not on the basis of any extraneous consideration whatsoever and should be made within the statutory period provided by Law.
- (iv) Since the information could not be provided to the Appellant/Complainant within the statutory period of 30 days in view of the belated communication by the P.I.O. vide letter No.L/14/6/(26/2005/112 dated 27-2-2009 nullifying the communication vide letter No.L/14/6/(26/2005/108 dated 16-2-2009; Sub-Section (6) of Section 7 of the R.T.I. Act requires that such information is to be provided free of charge.

The Commission therefore decides as follows:

- (i) That the instant case be registered as an Appeal case.
- (ii) The P.I.O. shall furnish full information to the Appellant within a period of 10 days from the date of this Order **free of cost**.

While parting with the case, the Commission cautioned the Public Authority concerned to administer the Law in the right spirit, in future.

Case disposed off.

(G.P.Wahlang)
Chief Information Commissioner,
Meghalaya.

Memo. No.MIC/Complaint/43/2009/10-A

Dated Shillong, the 29th May, 2009.

Copy to:-

- (1) The Deputy Commissioner, East Khasi Hills District (D.A.A.)
- (2) The Addl. Deputy Commissioner in-charge Revenue East Khasi District (P.I.O)
- (3) Shri Peter J. Lawai of Mawryngkneng, East Khasi Hills (Phone – 98564-58433).

(P.T.Rani)

Under Secretary,
Meghalaya State Information Commission,
Shillong.