

**MEGHALAYA STATE INFORMATION COMMISSION,  
SHILLONG**

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**No.MIC/Complaint/48/2009/5,**

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| 1. Shri Dimarius Kharkongor, Mawlai Nongkwar, Shillong.<br>2. Shri Robinstar Basaiawmoit, Mawlai Umjaiur, Shillong. | } | Complainants |
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| 1. Shri S. K.Sunn, S.E., PHE, Electrical Circle, Shillong- (PIO)<br>2. Smti S. Pariat, PHE, Electrical Circle, Shillong – (APIO) | } | Respondents |
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**ORDER**

**19-6-2009:** Both the Respondents are present in the Commission today. Shri Dimarius Kharkongor, the Complainant is also present.

Seen show cause dated 16-6-2009 and 17-6-2009 filed by the P.I.O. and A.P.I.O. respectively. According to the P.I.O. an application dated Nil was presented before him on 7-5-2009 by one Shri Blah accompanied by one Shri Tariang. On going through the application it was signed jointly by one Shri Dimarius Kharkongor and Shri Robinstar Basaiawmoit of Mawlai, Shillong. According to the P.I.O. on going through the application it was found out that the information requested relates to the works and status of the Greater Shillong Water Supply Scheme which was implemented by the Greater Shillong Water Supply Circle. Finding that the information does not relate to his field of activity he informed them that the application be better submitted before the P.I.O., O/o E.E., PHE, G.S.W.S. Division – I, Shillong. They agreed to do so and never came back. The claim by the Complainant that the application was presented before him on 14-5-2009 and 19-5-2009 is not correct. According to the A.P.I.O., Smti Solibai Pariat, Head Assistant, S.E., PHE, Electrical Circle, Shillong nobody came to her with an application under R.T.I. on 7-5-2009. On 14-5-2009 she did not attend office as she was on leave for medical check up at Guwahati. However, on 19-5-2009 one person identified as Shri Blah accompanied by another person identified as Shri Tariang came to see her with R.T.I. application jointly signed by Shri Dimarius Kharkongor and Shri Robinstar Basaiawmoit of Mawlai, Shillong. Since the matter relate to Greater Shillong Water Supply Scheme they have been advised to submit their application to S.E., PHE, GSWS Circle or the E.E., PHE, GSWS Division – I, Shillong.

During the enquiry the Complainant admitted that he sent the above persons named Shri Blah and Shri Tariang to handover the application to the P.I.O./A.P.I.O. and that the application does not carry any date. The issues before this Commission for decision are:

- (1) Whether an R.T.I. application can be presented before the P.I.O. by an unauthorized agent?
- (2) Whether a P.I.O./A.P.I.O. can direct any applicant to present his/her application before any other P.I.O.?

**Issue No. 1:**

An application for information under the R.T.I. Act is prescribed under Section 6(1) of the Act. Under this Section of the Law, a person who desires to obtain any information under this Act shall make a request in writing or through electronic means in English or Hindi or in official language of the area, in which the application is being made, accompanying such fee as may be prescribed, to the Public Information Officer or to the Assistant Public Information Officer specifying the particulars of the information sought by him or her; provided that where such request cannot be made in writing, the P.I.O. shall render all reasonable assistance to the person making request orally to reduce the same in writing. The plain reading of the Law seems to imply that the person who makes the request for information through an application should present the same personally or by post which is the normal procedure for submitting documents to functionaries performing legal or quasi-judicial functions. Under rule 3 of the Right to Information (Appeal and Procedures of the State Information Commission) Rules – 2007 published by the Govt. of Meghalaya, an appeal can be filed with the Commission by any person or party either by presenting personally or through an agent duly authorized or by post. Though the Rules relates to submission of Complaints and Appeals before the Commission, it is the firm view of this Commission that if appeals and complaints before the Commission can be presented or filed by any person or party either by presenting personally or through an agent duly authorized or by post, the manner of presenting application before the P.I.O./A.P.I.O. should also follow the same spirit. In the instant case, the requester who signed the R.T.I. application did not present it personally to the P.I.O./A.P.I.O. or send it by post but through an unauthorized agent. Hence, there is a procedural lapse in the instant case. Besides the application did not carry any date which is another infirmity. Because of such infirmities the application could have been rejected by the P.I.O. as not validly submitted.

**Issue No. 2:**

The Commission observed that an application has been submitted to the P.I.O. of a Public Authority. Hence, it is the duty of the P.I.O. to receive the application and to call for assistance for furnishing the information from any officer of the same Public Authority who holds the information as provided under Section 5(5) of the R.T.I. Act or deem the officer whose

assistance was sought as P.I.O. Therefore, by directing the applicant to another P.I.O. in the same Public Authority, the P.I.O. has violated the provision of the Law. The same is true of the A.P.I.O., in the instant case; her duty is to receive whatever application is submitted through him/her and to place it before the P.I.O. It is for the P.I.O. to decide how to dispose off the application. Directing the applicant to submit the application to another P.I.O./A.P.I.O., amounts to refusal to accept his/her application.

In the instant case, since the R.T.I. application has been presented by an unauthorized person before the P.I.O./A.P.I.O. The Commission, holds that the application has not been validly submitted to the P.I.O./A.P.I.O. The Commission, however, does not hold the P.I.O./A.P.I.O., liable for any penalty under the Law.

The Complaint is rejected.

The Complainant may submit fresh application to the appropriate P.I.O. following the procedure as laid down above.

Case disposed off.

**( G.P.Wahlang )**

**C.I.C.**

**Memo. No. MIC/Complaint/48/2009/5-A**

**Dated Shillong, the 19<sup>th</sup> June, 2009**

Copy forwarded to:-

1. Shri S.K.Sunn, Superintending Engineer, P.H.E., Electrical Circle, Shillong- (PIO)
2. Smti Solibai Pariat, P.H.E., Electrical Circle, Shillong – (APIO)
3. Shri Dimarius Kharkongor, Mawlai Nongkwar, Shillong (Phone) 9856158496
4. Shri Robinstar Basaiawmoit, Mawlai Umjaiur, Shillong (Phone) 9856411691

**( P.T.Rani )**

Under Secretary,  
Meghalaya Information Commission,  
Shillong.