

**PROCEEDINGS OF THE ASSAM INFORMATION COMMISSION**

**(Complaint under section 18 of the RTI Act, 2005)**

**Present** : 1. **Shri R. S. Mooshahary**  
**State Chief Information Commissioner.**  
2. **Dr. B.K. Gohain**  
**State Information Commissioner**

**In matter of complaint of**

**Case No** : **N.I. Mazharbhuyan**  
**10/2007** : **-vs-**  
**PD, DRDA, Hailakandi & BDOs of**  
**Hailakandi**

**Date of hearing** : **20.3.08**  
**Name of the Complainant** : **N.I. Mazharbhuyan,**  
**General Secretary, Assam Enviro Legal**  
**Protection Society, 7-Kalaguru Path,**  
**P.O. Hengrabari, Guwahati – 36.**

**Name of the Public Authority/ SPIO:** **PD, DRDA, Hailakandi & BDOs of**  
**Hailakandi**

**The following were present:**

- 1. Omar Sharif, ACS, EAC & I/C BDO**  
**Hailakandi Development Block**
- 2. Shri R. L. Sinha, BDO,**  
**Katlicherra Dev. Block,**
- 3. Shri P.K. Das, BDO, South**  
**Hailakandi & Lala Dev. Block**

**Public Authorities**

The complainant absent. Two persons namely Nurul Islam Borbhuyan and Burhan Uddin Laskar appeared before the Commission submitting that the complainant had authorized them to represent him in the case. But in the absence of any letter of authorization from the complainant, the Commission did not allow them to represent the complainant N.I Mazharbhuyan. The BDOs of Hailakandi Development Block, Katlicherra Development ;Block and South Hailakandi & Lala Development Blocks were present. However Sri P.B. Roy, SDO Sadar in-charge Algapur Development Block absent without reason. The Commission decided to hear the case ex-parte in view of the presence of the BDOs.

PD, DRDA, Hailakandi sent a letter to the Secretary of the Commission informing that he would not be able to attend the hearing on account of his brother's illness. He also sent an affidavit outlining the reasons to reject the petition. The CEO Hailakandi district was also absent without intimation.

**Brief of the Case**

On 31.10.07 a petition was received from N. I Mazharbhuyan of Guwahati in which he stated that he sought for information from the BDOs of Hailakandi district relating to the all Central Government Schemes from the year 2002-2007 up to date requesting the BDOs to furnish him copies of approved action plans of Hailakandi Anchalik Panchayat, Algapur Anchalik Panchayet, Katlicherra Anchalik Panchayet, Lala Anchalik Panchayet & South Hailakandi Anchalik Panchayet and all works done by BDOs concerned under all Central Government schemes from the year 2002-2007 up to date showing the amounts of allocations against each scheme, nature and names of works showing specific amounts spent against each of the works and names and address of individual institutional beneficiaries, if any. But till that date he did not receive any information.

On receipt of this application the Commission transferred the petition under section 6(3) of the RTI Act on 17.11.07 to the Project Director, DRDA, Hailakandi as he was the

SPIO for all the Blocks of the district. Then on 24.1.08 the Commission received a complaint from N.I. Mazharbhuyan in which he stated that he did not receive any information from the PD, DRDA inspite of transfer of his petition by the Commission on 17.11.07.

Accordingly the Chief Executive Officer, Hailakandi, PD, DRDA, Hailakandi, BDOs of Hailakandi, Algapur, Lala, Katlicherra and South Hailakandi were issued notices on 20.2.08 by the Commission to appear before the Commission today with all details / records concerning the complaint.

### **Submission of the Parties**

Omar Sarif, EAC & in-charge BDO of Hailakandi Development Block submitted that the complainant sought for information relating to all the Central Government schemes without specifying the schemes thereof. As such it was confusing & he could not take timely action to furnish the information.

Shri R.L. Sinha, BDO, Katlicherra Development Block submitted that the information sought for by the complainant were very bulky and there was confusion in his mind as to whether he should compile all the schemes of the block or only some information on some schemes needed to be furnished.

Shri P.K. Das, BDO of South Hailakandi and Lala Development Blocks stated that he was also not sure which schemes of the Central Government are to be compiled for information as there are numerous schemes executed by the blocks by themselves and through the Gaon Panchayat.

The Commission perused the written affidavit of Anamul Haque Choudhury, PD, DRDA, Hailakandi and found that the PD, DRDA had given the following reasons for not furnishing information to the complainant.

- (a) That the petitioner is a litigant person submitted this petition for extortion of money from Officer concerned involving all BDOs who are SPIOs which is a fact on the ground that the petitioner has no public interest and stayed always at Guwahati.
- (b) It is under banner of Assam Enviro Legal Protection Society etc. which has been created with motto of harassment to others and the reasons as follows:
- (c) It is also a fact that, this Society also filed a writ petition against the D,C & PD, DRDA Hailakandi along with BDO of South Hailakandi for misuse of fund at South Hailakandi block and no relief has been provided by Hon'ble High Court till date where affidavit in opposition submitted by BDO, South Hailakandi on behalf of the Government of Assam.
- (d) While he being the appellate authority and having taking initiative to dispose the case by providing necessary information after hearing and issued notice to the petitioner to appear in his office on 13.3.2008 at 11.30 A.M> later re-fixed on 15.3.08. Also informed all SPIOs of five Development Block who accordingly present on 15.3.08 at his chamber. To his utter surprise instead of notice issued in proper address the petitioner remain absent. Hence the hearing could not be taken place.
- (e) Sri Nazul Islam Mazharbhuyan who is also advocate of Guwahati High Court come down at Hailakandi during the period and contacted some of his Junior Officer to negotiate the case with a huge amount of money to be provided as donation to him. He was sure that the petitioner has not public interest rather extortion of money from the authority.

He also took the plea in his affidavit that it was the duty of the complainant to contact him and provide necessary fees which is required to make Xerox copy or to show him the records. He also stated that he asked the complainant to appear in the hearing in his office chamber on 15.3.08 but while all the BDOs of the district were present, the petitioner N.I. Mazharbhuyan was absent and hence he could not hear the case.

### **Observation of the Commission**

- i) The Commission on perusal of the petition of the complainant appreciated the fact as pointed out by the BDOs present that there was genuine confusion in the minds of the BDOs regarding the Central Government Schemes as there are dozens of such schemes and the documents relating to the approved action plans, amounts of allocation against each schemes, nature and names of works showing specific amount spent against each work including names and addresses of individuals / institutional beneficiaries would be very voluminous running into several hundred pages. So there might be genuine difficulties to provide photocopies of the document to the complainant as the office of the BDO is not well equipped and photocopying of such a large number of documents would disproportionately divert the resources of the public authority as mentioned under section 7(9) of the Act.
- ii) The Commission further noted that on the date when the petition was transferred to PD, DRDA, he was the designated SPIO of his district and it was his responsibility to collect the information and furnish it to the petitioner under section 7(1) of the Act within 30 days. This section clearly states that the State Public Information Officer, on receipt of a request under Section 6 as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in section 8 and 9. There is no provision whatever in the Act that the complainant should appear before the SPIO or the public authority to obtain information.

Section 7 (3) of the Act states that where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the State Public Information officer shall send an information to the person making the request giving (a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees., and the period intervening between the dispatch of the said intimation and payment of fees shall be exclude for the purpose of calculating the period of thirty days referred to in that sub-section.

The PD, DRDA, Hailakandi should have first assessed the fees required to be paid by the complainant for getting information. However, he did not do any thing of the sort. It is surprising that he had cited reasons for not providing information and not disposing the same stating that the petitioner had no public interest & stays always in Guwahati and that he is a litigant person who submitted the said petition for extortion of money from the officer concerned involving all BDOs who are SPIOs. He also mentioned that under the banner of Assam Enviro Legal Protection Society etc. which was created with motto of harassment to others and that he contacted some of his junior officers to negotiate the case with a huge amount of money to be provided as donation to him. He emphatically took the stand that the complainant has no public interest but extortion of money from the authority.

Section 6 (2) of the Act states as follows :

“An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him”.

Moreover, as per section 3 of the Act all citizens shall have the right to information and it is immaterial whether he stays in Guwahati or elsewhere.

The Commission was of the view that the PD, DRDA, Hailakandi had intentionally denied information to the complainant. In fact up to the date of hearing no information was provided by him or by any of the BDOs to the complainant on the issues raised by the complainant in his petitions addressed to the BDOs.

The Commission was of the view that the PD, DRDA, Hailakandi violated the provision of section 7 (1) of the Act intentionally and with the ulterior motive of suppressing information to a citizen which is not acceptable to the Commission. The reasons cited for refusing information border on defamation of the complainant.

The Commission however made it very clear that since the Government had since notified the BDOs as SPIO vide order dated 5.2.08 the complainant might like to apply to the BDOs individually specifying the Central Government schemes about which he needs information. The BDOs on receipt of such information would furnish the information in the form in which the information sought or allow the complainant to inspect the records and take notes if the information is bulky and cannot be provided in the form of photocopy.

#### **Decision of the Commission under section 19(8) (a) of RTI Act, 2005**

The Commission considering the pros and cons of the matter and after perusing the written affidavit of the PD, DRDA, Hailakandi and after hearing the BDOs present decided

- (i) to direct the PD, DRDA, Hailakandi to show cause as to why the Commission should not impose a penalty of Rs. 250/- per day upto a maximum of Rs. 25,000/- for his failure to provide information to the complainant by the next date of hearing,
- (ii) to direct the CEO to submit written explanation to the Commission why Commission should not draw adverse conclusion for his failure to attend the hearing,
- (iii) to direct the D.C. Hailakandi to seek explanation of Shri P.B. Roy, SDO(S) Hailakandi and in-charge Algapur Development Block for his willful absence from appearing before the Commission today for hearing.
- (iv) The Commission fixed 24.4.08 at 1200 hours for personal appearance and hearing of Anamul Haque Choudhury, P.D, DRDA, Hailakandi. Compliance with all other directions given herein will also be considered on that date.

**Sd/- (R.S. Mooshahary)**  
Chief Information Commissioner, Assam  
Janata Bhawan, Dispur.

**Sd/- (Dr. B K Gohain)**  
State Information Commissioner, Assam  
Janata Bhawan, Dispur.

**Authenticated true copy****(Jiauddin Ahmed)**

Secretary State Information Commission, Assam

Janata Bhawan, Dispur.

**Memo No SIC/HLK.10/2007****Dated March 20, 2008****CC:**

1. The Deputy Commissioner, Hailakandi to seek explanation of Shri P.B. Roy, SDO(S) Hailakandi and in-charge Algapur Development Block
2. The CEO, Zilla Parishad, Hailakandi.
3. Amanul Haque Choudhury, PD, DRDA, Hailakandi
4. Omar Sharif ACS, EAC & I/C BDO Hailakandi Development Block, Hailakandi
5. Shri R. L. Sinha, BDO of Katlicherra Development Block, Hailakandi
6. Shri P.K. Das, BDO, South Hailakandi & Lala Development Block, Hailakandi
7. N.I. Mazharbhuyan General Secretary, Assam Enviro Legal Protection Society, 7-Kalaguru Path, P.O. Hengrabari, Guwahati – 36
8. DIPR, Guwahati
9. MD, AMTRON
10. Office file

Secretary  
Assam State Information Commission,