

**PROCEEDINGS OF THE ASSAM INFORMATION COMMISSION**

**FULL 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 matters of complaint of**

**Case No** **Sri Partha Dev Goswami**  
**KP(M)23/2007** **- Vs-**

**Date of consideration**

**Political Department**  
**17.05.2008**

**Name of the Complainant** : **Sri Partha Dev Goswami**  
**C-2, 107 Santigram Housing Complex**  
**Tripura Road, Guwahati -22**

**Name of the Public Authority / SPIO:** **Commissioner & Secretary,**  
**Home & Political Department**

**Brief of the case**

The Commission held the first hearing of the case on 18.1.2008 and decided as follows:

- i) to direct the Commissioner & Secretary, Political Department Government of Assam to submit the file containing the enquiry report of the one man Committee headed by Shri C.K. Das, Additional Chief Secretary in sealed cover before the Commission by 17.2.08 through an authorized officer of the Government in the Political Department personally,
- ii) to direct the SPIO of the Political Department to scrupulously follow the clauses of the RTI Act while disposing the RTI matters,
- iii) to overlook the delay, which took place in disposing of the first appeal under section 19(1) of the Act by the Commissioner & Secretary, Political Department,
- iv) to furnish another copy of the Government letter No. PLA(V)105/2007/6 dated 8.1.08 to the petitioner by post / hand delivery.
- v) the Secretary of the Commission shall place the file as received from the Commissioner & Secretary, Political Department by 17.2.08 before the State Chief Information Commissioner.

The public authority subsequently made a submission before the Commission vide its letter No.PLA(V)66/207/19 dated 12<sup>th</sup> February, 2008 requesting for three months time to place the enquiry report of Shri C.K. Das, an Addl. Chief Secretary. The commission considered the request on 19.02.2008 and allowed three months extension with the direction that the said report be placed before the Commission latest by 17.05.2008.

The public authority through its letter No.PLA.350/2005/8 dated 13<sup>th</sup> May, 2008 submitted a copy of the enquiry report containing 32 pages and xxi annexures in a sealed cover.

**Observations by the Commission:**

- (i) Shri C.K. Das, an Addl. Chief Secretary was asked to enquire into the allegations of irregularities at Srirampur and Buxirhat Inter-State Check Gates in Kokrajhar and Dhubri districts respectively vide Government Notification No.PLA.350/2005/3 dated 13.9.2005. The terms of reference of the inquiry were:

- (a) to enquire into the allegations of irregularities taking place in Srirampur and Buxirhat Check Gates maintained by the Govt. of Assam,
- (b) to fix responsibility on the officers/officials/person/persons found responsible for such irregularities,
- (c) to suggest remedial measures for preventing such irregularities, and
- (d) any other related matters.

Shri Das conducted a detailed enquiry and submitted his report dated 07.04.2007 and the copy of the same had been made available to the Commission as directed.

(ii) In the hearing on 18.1.2008, the public authority took the plea that the report could not be furnished to the petitioner as it came to the purview of exemption under section 8(1)(a) of the RTI Act, 2005. The public authority also made a verbal submission during the hearing that the report could not be furnished to the petitioner as it was covered by the exemption under section 8(1)(h) of the Act.

(iii) Having considered the stand taken by the public authority, the Commission decided to examine the report itself and accordingly directed the public authority to place the report before the Commission by 17.02.2008. The public authority then made further submission for granting three months extension for placing the report before the Commission on the ground that the Government was contemplating appropriate action on the report and furnishing the copy of the report at that stage might interfere with the follow-up action. The Commission accordingly granted the time and ordered the placing of the report before the Commission latest by 17.05.2008.

(iv) The Commission has examined the report in detail. It is a report on the functioning of the inter-state check gates at Srirampur and Buxirhat(Chagalia). The report mentions the problems of the transporters at these check gates on account of the mismanagement and corrupt practices by those who are expected to facilitate smooth movement of the inter-state traffic. The report contains, as mentioned in the terms of reference, the nature of irregularities taking place in these check gates. It also tries to fix responsibilities on the persons responsible for these irregularities and for failure to manage the check gates properly. The report further contains a set of recommendations for improving the functioning at the check gates.

(v) It was an open public enquiry by a public order issued by the Government. In the course of enquiry, Shri C.K. Das had interacted with the number of representatives from the cross sections of the public, truck drivers and Government functionaries. It was never designed to be a secret enquiry. It was an enquiry trying to find ways and means to eradicate malpractices at the check gates through participation of the stake-holders. The declared objective of the RTI Act is to promote transparency through participatory governance in order to contain corruption. Therefore any endeavour by the Government to obtain these objectives must not be kept under wraps in the shelves of the government offices but find place for public debate and scrutiny.

(vi) The stand taken by the public authority that the report was exempted under section 8(1)(a) is totally untenable. This section says that the public authority shall have no obligation to give any citizen “information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence.” By no stretch of imagination it can be interpreted that the disclosure of the report will prejudicially affect any areas of interest as mentioned in the section. The Commission recalls the submission by the public authority that disclosure would harm the economic interest of the State. After going through the report, the Commission would like to comment that if anything, the disclosure of the report will only generate healthy awareness among the public, which will go a long way in curbing corruption which is taking place at these check gates and so enhance the revenue collection and improve the economic health of the State. Likewise, the exemption under section 8(1)(h) which mentions that the information the disclosure of “which would impede the process of investigation or apprehension or prosecution of offenders” is not applicable at all as no such situation has arisen in the process of follow-up action on the recommendations of the report.

(vii) The public authority should bear in mind that disclosure of information is the norm and refusal is an exception. It is precisely for this reason that section 4 of the Act

enjoins upon the public authorities to make voluntary disclosures on all matters of their functioning so that the citizenry comes to know the details involved in public administration. Section 8(2) of the Act emphasizes the fact that notwithstanding anything in the Official Secrets Act, 1923, nor any of the exemptions permissible in accordance with Sec. 8(1) of the Act, a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests. It is, therefore, clear that the main consideration for allowing the access to information is the public interest. This case is not even covered by the exemption; on the contrary, there is a great deal of public interest in its disclosure.

(viii) The report contains points of great public interest which the citizens should know so that the corrupt practices at the check gates could be contained. Some observations in the report are of importance. At page 6, it says that “the State Government appear to be losing several hundred crores a year due to corruption in these two check gates.” At page 23, it observes that truckers have to pay on entering the check gates in Assam between Rs.1400/- to Rs.6000/- depending on the nature of the goods and the capacity of the carrier whereas in West Bengal side they have to pay just about Rs.80/- per truck. Not only that, the report also says that even after paying the money to the check gates, truckers have to wait for about three hours to be allowed to cross the check gates, while in West Bengal, they cross just in an hour. Again at page 25 it is recorded that “extortion of money between the inter-state check gates to Guwahati appears to be one of the major causes of higher prices of many commodities in Assam.”

(ix) The report compares at pages 8 and 9 the ongoing corrupt practices at the check gates to the practice of ‘thugees’ in Central India in the nineteenth century which was effectively contained by Sir William Sleeman. It states that there is need for someone like Lord William Bantinck to give appropriate direction to stop the corrupt practices to officers like Sir William Sleeman of which there is no dearth even now. The report therefore contains materials, disclosure of which is likely to serve cause of containing corruption prevalent at the check gates and the Commission sees no reason to withhold the same from disclosure.

**Decision of the Commission:**

The Commission having considered the entire issues involved in the contents of the report finds no reason to deny access to it to the petitioner. Therefore, the Commission directs the Commissioner & Secretary, Home & Political Department and the SPIO of the Home & Political Department under section 19(8)(a)(i) to furnish the Photostat copy of the report in full (32 pages with xxi enclosures) latest by 27.05.2008 on payment of the cost of photocopies by the petitioner.

**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.KP(M) 23/2007**

**Dated May 17, 2008**

**CC:**

1. The Commissioner & Secretary, Home & Political Department, Government of Assam, Dispur
2. Shri S.K. Roy, Joint Secretary to the Govt. of Assam, Political(A) Deptt., Dispur.
3. Shri P.C. Mahanta, SPIO of the Political Department, Govt. of Assam, Dispur.
4. Shri Partha Dev Goswami, C-2, 107 Santigram Housing Complex, Tripura Road, Guwahati- 22.
5. The DIPR, Dispur, Guwahati.
6. MD, AMTRON, Bamunimaidan
7. Office file.

Secretary  
State Information Commission, Assam