

MEGHALAYA INFORMATION COMMISSION, SHILLONG

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No.MIC/APPEAL/55/2008/19,

Shri S.K.Singh, Limbu Compound, Barapathar, Shillong - Appellant

-Vrs-

(1)Managing Director & First Appellate Authority, MCAB, Shillong
(2)Branch Manager & P.I.O., MCAB, Shillong. | Respondents

(3)Headmaster, Madan Laban Nepali Secondary School, Shillong - Third Party-Respondent

16-2-2009

ORDER

The Appellant is present in the Commission today. The Respondents and the Third Party-Respondent are also present.

The Appellant in this case is one Shri S.K.Singh, C/o Limbu Compound, Barapathar, Shillong – 2, Sanitary Inspector, (Retd.) NEHU. The Appellant had requested certain information from the PIO viz., Branch Manager, M.C.A.B., Shillong on 28-5-2008. The information requested relates to the Bank Account statement of ‘public money’ namely the Govt., Grants-in-aid in respect of Madan Laban Nepali Secondary School, Shillong for the period of financial year 2003 to 2006.

The Respondent No. 2 viz., the Branch Manager (PIO), MCAB who decided that the information is exempted under section 8(1)(e) of the Right to Information Act denied the information. Thereafter, the Appellant preferred the first Appeal before the Managing Director – FAA vide his letter No.1108/SKS/RTI/5/151 dated 23-10-2008. The First Appellate Authority (DAA) vide Order dated 7-11-2008 confirmed the decision of the Respondent-PIO that the information involved fiduciary relationship and is exempted under section 8(1)(e) of the Act.

Failing to get a favourable decision from the First Appellate Authority, the Appellant preferred the Second Appeal before the Commission vide letter No.1108/SKS/PERS/RTI/05/153 dated 20-11-2008. The ground for appeal is that the information sought by the Appellant is not about a personal account of a person or a private institution but about the account maintained by the Respondent of Govt., Moneys viz., the Grants-in-aid received by the concerned School from the Govt. and kept in the account of the Bank. Being such public money the Appellant contended that the exemption under section 8(1)(e) of the RTI does not apply at all.

In his submission, Respondent No. 1 viz., the Managing Director, MCAB claimed that there is fiduciary relationship between the Bank and its clients as evidence from the various provisions of the Bankers’ Books Evidence Act, 189. He also submitted that there are rulings by different Courts establishing the fiduciary nature of the relationship of the Bank and its clients.

On being examined by the Commission, Respondent-PIO submitted that the Bank maintains separate identity of the account of Grants-in-aid received from the Govt. by

the School concerned but submitted that according to Bankers' Books Evidence Act, 1891 even such accounts are kept in secrecy.

Having heard both the Respondents and the Appellant on 23-1-2009, the Commission expressed its opinion that since the information sought by the Appellant relates to Govt. Moneys kept in the Bank by the School Authority there should be no ground for withholding the information to the citizens who wants to know the state of utilization of Govt. Money given as Grants-in-aid to the School, the Account for which is being maintained by the Bank. However, since the money belongs to the Institution viz., the Madan Laban Nepali Secondary School (including Primary & Upper Primary) the information therefore involved a Third Party. Accordingly, the Commission decided to give the Third Party the right of hearing before the final decision is taken.

The Third Party-Respondent viz., the Headmaster, Madan Laban Nepali Secondary School (including Primary & Upper Primary) who appeared before the Commission today reiterated the stand taken by the Respondents for refusal of the information. He submitted that the School maintains only one Bank Account with the Bank wherein the school funds received from the private sources are also deposited. He has no strong objection for disclosure of the account relating to Govt., Grants-in-aid if the Bank kept separate identity of such accounts.

Having heard all the parties concerned the Commission while admitting the existence of the fiduciary nature of relationship between the MCAB and its clients in general, such relation does not necessarily extend over the keeping of public funds with the Bank, be it Govt., Grants-in-aid or subsidies or any welfare funds make available by the Govt. to the beneficiaries/agencies of the Govt. Transparency and openness demands that such information should come under the public domain.

That being the case, the Commission decided that the Respondent-PIO viz., the Branch Manager, MCAB shall make available the information requested by the Appellant viz., the Grants-in-aid received by the School from the Govt. for all sections of the Madan Laban Nepali School for the financial year 2003, 2004, 2005 and 2006 as available with the records of the Bank, on or before the **23-2-2009** with intimation to the Commission.

Case disposed of.

(G.P.Wahlang)
C.I.C.

Memo.No.MIC/APPEAL/55/2008/19-A Dated Shillong, the 16th February, 2009
Copy to:-

- (1) The Managing Director & D.A.A., Meghalaya Cooperative Apex Bank, Ltd., Shillong.
- (2) Branch Manager & P.I.O., Meghalaya Cooperative Apex Bank, Ltd., Shillong.
- (3) The Headmaster, Madan Laban Nepali Higher Secondary School, Shillong.
- (4) Shri S.K.Singh, C/o Limbu Compound, Barapathar, Shillong – 2.

(P.T.Rani)
Under Secretary,
Meghalaya Information Commission,
Shillong.