

**MEGHALAYA INFORMATION COMMISSION, SHILLONG**

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**No.MIC/Appeal/74/2008/20,**

Shri Smek Marboh of Lawsohtun, Shillong - Appellant

-Vrs-

(1)Shri R.Wanniang, D.A.A., K.H.A.D.C., Shillong  
(2)Shri P.Kharshiing, P.I.O., K.H.A.D.C., Shillong } Respondents

**11-5-2009**

**ORDER**

The Appellant in the instant case is one Shri Smek Marboh of Lawsohtun, Village, Shillong. Shri R.Wanning, DAA and Shri P.Kharshiing, PIO, KHADC are the Respondents.

The brief summary of the case is as follow:

On 4-7-2008, the Appellant filed an application under R.T.I. Act before the Respondent-PIO seeking certain information on creation of Shnad Raid Tynring Khyrim Syiemship and other connected information. He also mentioned in his application that he would like to inspect the documents before the information is supplied to him.

On 16-7-2008, the Respondent-PIO supplied some information to the Appellant without affording him the opportunity of inspection of the documents. The Appellant expressed dissatisfaction within the information supplied to him and preferred the First Appeal before the Respondent-DAA on 18-8-2008. Not receiving any order from the Respondent-DAA during the statutory period of 30 days, he preferred the Second Appeal before the Commission on 10-10-2008. Meanwhile, the Respondent-DAA had already passed necessary Orders on the First Appeal on 16-9-2008 i.e within the statutory period of 30 days through which Order, the DAA confirmed the decision and action taken by the Respondent-PIO and did not agree with the claim of the Appellant that the information requested was not provided to him. However, it appears that this Order did not reach the Appellant by the time he preferred the Second Appeal before the Commission on 10-10-2008.

This Commission heard both the parties in detail on 14-11-2008 on the following issues:

- (1) Whether the Appellant has been provided an opportunity to inspect the records and the requested information furnished to him in full?
- (2) Whether the Respondent-DAA had taken any decision on the First Appeal preferred by the Appellant?

(3) Whether the Public Authority of K.H.A.D.C., has taken any action to streamline the functionaries for implementation of the R.T.I. Act over the subject under its administrative control?

Regarding issue No.1, the Commission found that the inspection of records did not take place because the relevant records are not in the custody of the Respondent-PIO but under the custody of the office of the Syiem of Hima Khyrim Syiemship. The Respondent-PIO did not take steps to call for the record from various office of the Public Authority to afford the Appellant the right of inspection as required by him. It is, however, on record that the Respondent-PIO had taken necessary steps to furnish whatever information are available in his custody on 16-7-2008 and that he had also called for the information required by the Appellant from the office of the Syiem of Hima Khyrim Syiemship. It is also on record that the Syiem of Hima Khyrim Syiemship furnished certain information to the PIO which the PIO made available to the Appellant on 15-9-2008 and which according to the Appellant are unsatisfactory and incomplete information. Having examined the content of the information furnished to the Appellant, the Commission agreed with the claim by the Appellant that the right of inspection has been denied to him and that information made available to him by the Respondent-PIO is not complete.

Regarding issue No.2, the Commission found that the Respondent-DAA had passed necessary Orders on 16-9-2008 on the First Appeal petition and in his Orders, the Respondent-DAA confirmed the action taken by the Respondent-PIO and set aside of the claim made by the Appellant that full information was not provided to him. This Order by the Respondent-DAA was received by the Appellant only after the filing of the Second Appeal on 10-10-2008 before this Commission.

Regarding issue No.3, the Commission found that the process of streamlining the implementation of the R.T.I. in the Public Authority of K.H.A.D.C., is still under consideration by the Executive Committee, KHADC. As per the DAA who is also the Joint Secretary of the Executive Committee, District Council Khasi Hills, the Executive Committee has full authority over the offices of all other authorities under its control and should be in a position to implement the provisions of the R.T.I. Act satisfactorily. The DAA also stated that the Council is contemplating to appoint separate PIOs for each Syiemship etc to ensure better coordination and timely collection of information.

With findings as above and the assurance given by the DAA, the Commission, vide Order dated 14-11-2008 directed the Respondent-DAA as Head of the Public Authority of the K.H.A.D.C., to take necessary steps to make available the relevant record to the Appellant for inspection by him within the period of 15 days from the date of the Order i.e. 14-11-2008 and to provide necessary copies of the information requested by the Appellant within the period of 30 days after the inspection. The Commission also asked the Public Authority of K.H.A.D.C., to

take concrete steps to streamline the functionaries under the R.T.I. Act in the Public Authority within the period of 30 days from the date of the Order and the Respondent-DAA was asked to file a compliance report on or before the 16-12-2008.

Having allowed time by this Commission to file compliance report by 6-1-2009, the Respondent-DAA informed the Commission vide affidavit dated 6-1-2009, the steps taken by him in compliance of the Commission's Order which inter-alia contain a prayer for closing the instant Appeal on the grounds that the Appellant had submitted before him and before the Respondent-PIO his desire of withdraw the original application and the First Appeal made before him (Respondent-DAA) as a matter has been settled between the Appellant and the Office of the Syiem of Hima Khyrim Syiemship for furnishing the information etc. A copy of the letter dated 2-1-2009 signed by the Appellant and the Deputy Chief of Syiem of Hima Khyrim Syiemship was also placed before this Commission by the Respondent-DAA.

The Commission considered the matter on 6-1-2009 and decided that under the R.T.I. Act, the Appellant cannot withdraw the R.T.I. Application on the ground of a compromise but can do so on the ground that he no longer requires the information. Since the Second Appeal has been pending before the Commission it is for the Appellant to come forward with a prayer to withdraw his Appeal if he does not require the information any more and till such time the Second Appeal remains alive. Subsequently, on 22-1-2009, the Appellant came up with a submission that he does not intend to withdraw the Second Appeal on the ground that till that day no concrete steps have been taken by the Respondent-DAA or by the concerned Authority to furnish the information or rectify matters concerning which the information was sought by him. The Commission, therefore, allowed 15 days time to the Respondents i.e. till 9-2-2009 for compliance with the Order dated 14-11-2009 issued by the Commission.

On 9-2-2009, the date fixed for report of compliance both the Respondents and the Appellant were absent without taking any steps. As a result, the Commission had to issue show cause notice to the Respondent-PIO why penalty according to Law should not be imposed upon him for denial of full information, to the Appellant fixing 25-2-2009 for show cause.

The matter came up on 19-3-2009 for further hearing. The Respondent-PIO in his show cause submitted that there has been delay of 7 days from 9-2-2009, the date of the Order, till 16-2-2009 the date of compliance with Commission's Order which was not deliberately or intentional but due to the fact that there was an Election to the K.H.A.D.C., held on 10-2-2009 and the Respondent-PIO has been hindered from discharging his normal duties in favour of the Election. The Commission had reserved its decision on the show cause in the final Order.

Meanwhile, having heard both the parties, this Commission took a view that the Respondent-PIO had indeed made necessary arrangement on 16-2-2009 for

inspection of documents and whatever information as exists have been made available to him. The Appellant is however, given a chance to justify his claim by 6-4-2009 that certain information which exists have been denied to him by the Respondent-PIO.

The Appellant on 6-4-2009 furnished the statement indicating sample copies of certain information stated to have been issued by the office of the Syiem of Hima Khyrim Syiemship which are similar to copies requested by him. The Respondent-PIO was asked by the Commission to call for such documents stated to be in existence and furnish copies to the Appellant after giving him an opportunity of inspection. Information which are claimed to be non-existent should be specifically indicated in writing. The Respondent-PIO was asked to report compliance on 22-4-2009.

On the date of hearing, the Appellant admitted that he had inspected the records and certain information has also been furnished to him, however, he did not receive any indication in writing stating that other parts of information which are not furnished to him are non-existent. The Respondent-PIO in his affidavit stated that there was no further information available with the Syiem of Hima Khyrim Syiemship and that the remaining information may be available with the Sirdars and prayed the Commission two weeks' time to enable the Syiem of Hima Khyrim Syiemship to call the relevant information from the Sirdars. The Commission allowed time upto 11-5-2009 for final hearing of the case.

During the hearing on 11-5-2009, the Respondents through an affidavit informed the Commission that there is no further information was available with the Public Authority of the District Council over what has been given, and if any, information is available at the level of the local Sirdars, the Syiem of Hima Khyrim Syiemship has under taken to instruct the Sirdar, Shnad Raid Tynring to further enlighten the Appellant on the information required by him.

Having gone through the elaborate procedure of implementing the provisions of the R.T.I. Act in respect of the Public Authority of the K.H.A.D.C., and its subordinate offices/authorities, the Commission concludes its findings with the following observation/decision and recommendation viz:

- (1) That the Respondent-DAA and Respondent-PIO of K.H.A.D.C., has sincerely tried to furnish information as available to the Appellant but the existing arrangement of enforcing the Law by the Public Authority has not been very effective.
- (2) That the reply to the show cause furnished by the Respondent-PIO for the delay of 7 days in arranging and furnishing of records has been found acceptable by this Commission and hence, the Respondent-PIO is not liable for penalty under the Law.
- (3) The information sought by the Appellant are not specific in nature this has created problem for the Public Authority to identify the required information. The Appellant may not be fully satisfied with the completeness of the

information furnished to him. He is at liberty to make further information requests for specific documents/records etc.

(4) While parting with the case, the Commission expressed dissatisfaction with the manner in which records are maintained by the subordinate offices of the concerned Public Authority and recommends:

(a) That the Public Authority of the K.H.A.D.C., keep the offices of all the Syiems, Sirdars, Wahadadars etc within the Public Authority of the Autonomous District Council itself.

(b) That the Public Authority take immediate step to impart training etc to all legal functionaries etc under its Public Authority, on the provisions of the Law.

(c) That other Autonomous District Councils of the State may also take similar appropriate action accordingly.

Case disposed off.

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

**Memo.No.MIC/Appeal/74/2008/20-A**

**Dated Shillong, the 11<sup>th</sup> May, 2009**

Copy to:-

- (1) Shri R.Wanniang, D.A.A. Khasi Hills Autonomous District Council, Shillong.
- (2) Shri P.Kharshiing, P.I.O., Khasi Hills Autonomous District Council, Shillong.
- (3) Shri Smek Marboh, C/o Agnes Lynshiang, Block – I, Lawsohtun, Shillong – 4, Phone – 9856003173.
- (4) P.S. to the Principal Secretary, Govt. of Meghalaya, District Council Affairs Department, Shillong.
- (5) The Secretary Executive Committee, Jaintia Hills Autonomous District Council, Jowai.
- (6) The Secretary Executive Committee, Garo Hills Autonomous District Council, Tura.

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