

**MEGHALAYA STATE INFORMATION COMMISSION,
SHILLONG**

...

No. MIC/Appeal/64/2009/13,

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

-Vrs-

(1) Deputy Inspector of Schools, East Khasi Hills (PIO)
(2) Director, Elementary & Mass Education, Govt. of Meghalaya (DAA) } Respondents

28-7-2009

ORDER

Both the appellant and the Respondents are present in the Commission today.

The case of the appellant is that he filed an R.T.I. application on 1-8-2008 to the Respondent No. 1 viz., the Deputy Inspector of Schools, East Khasi Hills, Shillong requesting certified copies of the accuitance roll in respect of Madan Laban Nepali, UP/LP School for the year 1995 to 2000. Instead of receiving the information requested, the appellant received a communication from the Headmaster of the Madan Laban Nepali U.P/L.P School, Shillong who, vide letter No.NHS/RTI/2008/09 dated 26-8-2008, refused to furnish information giving certain grounds. The appellant vide letter No. 1108/SKS/RTI/05/54 dated 27-8-2008 and letter No. 1108/SKS/RTI/05/138/41 dated 5-12-08 counteracted the refusal of the Headmaster/APIO to furnish him the information. However, vide letter No. NHS/RTI/2009/01 dated 26-3-2009, the Headmaster/APIO has again informed the appellant that information cannot be furnished being exempted under Section 8(1)(j) of the R.T.I. Act. Failing to receive the information from the Headmaster/APIO the appellant made an appeal before the D.A.A. viz., the Director of Elementary & Mass Education, Meghalaya, Shillong on 4-5-2009. Failing to receive any decision by the D.A.A., he had preferred the instant appeal before the Commission vide his petition dated 22-6-2009.

Vide Order dated 16-7-2009, the Commission had asked the D.A.A. viz., the Director of Elementary & Mass Education, Meghalaya, Shillong to submit a

report on the First Appeal submitted by the appellant. The report furnished by the First Appellate Authority dated 28-7-2009 stated that he did not receive any appeal dated 4-5-2009 from the appellant and therefore no action has been taken by him on such appeal.

Having heard both the Respondents and the appellant and having examined the matter in details the Commission made the following observations:

1. The P.I.O. vide letter No. DI/APPEAL/UP/MC/RTI/07/14279 dated 6-8-2008 informed the Headmaster, Madan Laban Nepali, UP/LP School who is the APIO that he has been deemed PIO and has to provide information to the appellant directly. Nowhere in the Law it is provided that the PIO can straightaway deem PIO any APIO or officer except as provided under Section 5(5) of the R.T.I. Act. The above section of the Law states that any officer whose assistance has been sought under Sub-Section (4) shall render all assistance to PIO and if there is any contravention of the provision of Law such officer shall be treated as PIO. Sub-Section 4 again states that the PIO may seek the assistance of any other officer as he or she considers necessary for the proper discharge of his or her duty. It is, therefore, very clear that in order to deem any officer as PIO, first of all the assistance of such officer should be sought. Only when the officer concerned failed to render such necessary assistance resulting in any contravention of the provisions of the Law, the officer concerned can be deemed PIO. The normal practice followed is that the PIO who seeks the assistance of any other officer or a APIO should indicate the date within which the assistance should be provided, failing which the officer from whom the assistance is sought can be deemed or treated as PIO. Hence the procedure followed by the PIO in the instant case is not in accordance with the Law and should not be repeated.
2. The action taken by the Headmaster of the School who was deemed PIO by the PIO are not actions validly taken under the Law.
3. The First Appeal was preferred by the appellant before the First Appellate Authority on 4-5-2009. The original R.T.I. application was filed on 1-8-2009. The period of validity for making the first appeal expired on 1-10-200. Hence,

the instant first appeal has been preferred seven months after the expiry of the validity period and the same has not have been received by the First Appellate Authority till date. No evidence has been placed before this Commission to show that the appeal has in fact been received, through acknowledgement or otherwise. Hence the Commission accepted the report of the D.A.A.

Though both the Respondents and the appellant have not followed the correct procedure in the instant case, considering the fact that the information requested relates to the accuitance roll which has already been audited by the Director of Local Accounts and is very much in the public domain, the Commission directed the PIO viz., the Deputy Inspector of Schools, East Khasi Hills, Shillong to furnish the information to the appellant within a period of 10 days from the date of this Order with intimation to this Commission.

Case disposed off.

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

Memo. No. MIC/Appeal/63/2009/13-A
Copy to:-

Dated Shillong, the 28th July, 2009

- (1) Deputy Inspector of Schools, East Khasi Hills (PIO)
- (2) Director, Elementary & Mass Education, Govt. of Meghalaya (DAA)
- (3) Shri S.K.Singh, C/o Limbu Compound Barapathar, Shillong – 2.

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