

**MEGHALAYA STATE INFORMATION COMMISSION,
SHILLONG**

...
No. MIC/Appeal/7/2009/18,

Bincy Thomas, C-17 A, DDA Flats, Munirka, New Delhi - Appellant

-Vrs-

(1) S.P., South Garo Hills District, Baghmara (P.I.O.)
(2) D.I.G., (Western Range), Tura, Meghalaya (F.A.A.)
(3) D.G.P., Meghalaya, Shillong

} Respondents

5-3-2009

ORDER

The appellant is represented by Shri Tarun Bhartiya duly authorized by her. Respondents are absent but filed written statements.

The case of the appellant is that she had filed an RTI application on 19-6-2008 to the PIO, office of the Superintendent of Police, District South Garo Hills, Baghmara, Meghalaya, 794102 on matters relating to disposal of RTI applications by the PIO, along with a Postal Order of Rs.10/- as an application fee. Failing to receive any response from the PIO within the statutory period she had filed the First Appeal addressed to the First Appellate Authority, Police Department, South Garo Hills, 794102 on 24-9-2008. Not certain about the correct address of the First Appellate Authority, she had sent the appeal through the D.G.P., Meghalaya, Shillong with a request to pass it on to the First Appellate Authority.

Failing to receive any response from the First Appellate Authority or any acknowledgment of the receipt of the letter to the D.G.P., she had preferred the instant appeal before the Commission vide her letter dated 12-12-2008 which was received in the Commission on 22-12-2008.

In her appeal petition, the appellant has asked the Commission to direct the PIO to furnish the information free of cost and to impose the maximum penalty to the PIO for refusing her the information.

Respondent No. 1 & 2 appeared before the Commission on 30-1-2009 and both the PIO and the F.A.A. denied having received the RTI application or the appeal petition from the appellant. In absence of the D.G.P., to justify denial of information, the Commission vide an interim Order, directed the PIO to furnish the information free of cost to the appellant on or before the 6-2-2009. Respondent No. 1 & 3 were asked to file written statements on the appeal petition and the appellant was also asked to produce documentary evidence of receipt of her application etc by the Respondents.

Respondent No. 1 indicated that the information has already been furnished to the appellant free of cost as directed by the Commission and that there was no record

available in his office to show that the application for information has ever been received in his office.

The D.G.P., in his written statement mentioned that his office received the letter on 24-9-2008 from the appellant but did not act on it as the appeal was time-barred under the Law and there was no ground made in the appeal for not filing it in time.

While the information requested by the appellant has been made available to her by the PIO and the authorized representative of the appellant submitted that the same has been duly received by the appellant, the only issue remained for decision is whether the penalty should be imposed on the PIO for the delay in furnishing the information.

The fact of receipt of the RTI application by the PIO has not been proved. The copy of the receipt of registration made available to this Commission by the appellant does not indicate full and correct address of the PIO. Besides, there is no denying the fact that the appeal made before the First Appellate Authority is time barred. The stand taken by the D.G.P., that because the appeal is time barred it should not be passed on to the First Appellate Authority is not the correct stand. For it is not for the Department or any public authority to make such a decision but by the appellate authority alone. The office of the D.G.P., Meghalaya is advised to take note of such legal requirement in future.

Since the information has already been received by the appellant and there is no clear evidence available on record to show that the PIO has willfully refused the information to the Appellant. The Commission decided that the PIO is not liable to penalty in the instant case.

Case disposed of.

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

Memo. No. MIC/Appeal/7/2009/18-A Dated Shillong, the 5th March, 2009

Copy to:-

1. D.G.P., Meghalaya, Shillong.
2. D.I.G., (Western Range), Tura, Meghalaya (F.A.A.)
3. S.P., South Garo Hills District, Bagmara (P.I.O.)
4. Bincy Thomas, C-17 A, DDA Flats, Munirka, New Delhi - 110067

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