

**MEGHALAYA STATE INFORMATION COMMISSION,
SHILLONG**

...

No.MIC/Complaint/21/2009/11,

Shri Edward K.Sangma of Kusimkolgre, Williamnagar - Complainant

-Vrs-

Shri B.G.Momin, PIO & District Mission Coordinator, District
Unit SSA-SMAM, Williamnagar, East Garo Hills - Respondent

12-6-2009

ORDER

The Complainant in this case is Shri Edward K. Sangma of Kusimkolgre, Williamnagar, East Garo Hills, Meghalaya and the Respondent-PIO is Shri B.G. Momin, District Mission Coordinator, District Unit SSA-SMAM, East Garo Hills, Williamnagar.

A brief account of the case of the Complainant is as follows:

He filed an R.T.I. application dated 9-10-2008 addressed to the District Mission Coordinator/Deputy Inspector of Schools, East Garo Hills, Williamnagar requesting the following information on implementation of SSA Programmes in the district during the year 2007-08, 2008-09 viz.,

A.

1. Copy of Banks Pass Books – 2007-08 onwards.
2. Copy of Cash Book – 2007-08 onwards.
3. Copy of Ledger Book – 2007-08 onwards.
4. Copy of Audit Report – 2007-08 onwards.
5. Copy of sanction and approved Plan – 2007-08 & 2008-09.

B.

1. Detail report of E.G.S. Salaries of the Teachers under five Blocks.
2. Detail list of Teachers appointed (Block-wise)

3. Detail list of number of Schools and VECs block-wise which already approved by the authority.
4. Detail report of Teachers SRCs, CRC, BRP and Community training.
5. Copy of APRs of Training of Teachers and community.
6. Detail report of contingency expenditure with receipt of EGS centres.
7. Detail report of teaching learning materials distributed.
8. Detail report of amount expenditure with receipts.

The Complainant also enclosed Bankers' Cheque of Rs.10/- bearing No.BC – 00/38 358040 dated 3-12-2008.

However, the Complainant did not receive any response from the P.I.O. within the statutory period of 30 days of the date of his application. Hence he filed the instant complaint before this Commission on 17-2-2009.

A notice was issued to the Respondent-PIO to appear before the Commission and to show cause why penalty according to Law should not be imposed upon him for refusal of information to the Complainant. The Respondent-PIO did not appear in person on the date fixed for hearing but filed a show cause vide letter No. EGH/SSA/69/2009-946 dated 9-3-2009. Vide the above show cause, the Respondent-PIO stated:

- (i) That the application for information dated 9-10-2008 was received by him on 9-12-2008 along with Bank Draft of Rs.10/- bearing No. BC 00/38 358040 dated 3-12-2008 according to him, the Complainant back dated his application two months ahead of its actual submission.
- (ii) That after a scrutiny of his application it is found that he failed to enclosed the following documents for identification as Indian citizenship which is very doubtful, viz.,
 - (a) Nokma documents for his permanent citizenship
 - (b) Caste certificate
 - (c) Election identity card
 - (d) Contact Phone No./ Mobile No.

- (iii) That he learnt from reliable sources that the Complainant is actually from the State of Nagaland and not from Kusimkolgre, Williamnagar, under Meghalaya State.
- (iv) That it is very risky to furnish information like Cash Book, Bank Pass Book, Bank balance, Leger Account etc. to unknown person like the Complainant.
- (v) That he had rejected the application for information to the Complainant vide letter dated 20-1-2009 and that there was typing mistake in the memo copy of the letter which appear as dated 29-1-2009.
- (vi) That due to long holiday and New Year festival he could not take action in time. But the Complainant has been informed that he can appeal before the Respondent-PIO and District Mission Coordinator, SSA-SMAM District Unit, East Garo Hills, Willimanagar within 30 days of the receipt of the above letter.

The Commission vide its Order dated 16-3-2009 had asked the Respondent-PIO to substantiate the grounds given by him in his show cause for denial of information. He has been given time till 6-4-2009 to appear in person and to substantiate the grounds, if any. The Respondent-PIO, however, failed to make his appearance before the Commission or to substantiate the ground for refusal of information. The Commission is, therefore, compelled to presume that the Respondent-PIO does not desire to be heard in person nor to substantiate the grounds. Hence the Commission is compelled to consider the case based on the facts on records.

Now the issues before this Commission for decision are:

- (1) Whether the claim of the Respondent-PIO to have received the R.T.I. application dated 9-10-2008 on 9-12-2008 is valid?
- (2) Whether the grounds for refusal of information are valid in Law?
- (3) Whether there was willful refusal of information by the Respondent-PIO?
- (4) Whether the Respondent-PIO is liable for penalty and quantum of penalty?

Issue No.1:

Copy of the original R.T.I. application available with this Commission, signed by Shri Edward K. Sangma of Kusimkolgre, Williamnagar, dated 9-10-2008. However, the Bank Draft of Rs.10/- which was enclosed with the R.T.I. application as application fee was

issued on 3-12-2008. The Respondent-PIO has initialed on the R.T.I. application received by him on 9-12-2008. There is, therefore, every reason to believe that a valid R.T.I. application was received by the Respondent-PIO on 9-12-2008.

Issue No. 2:

Regarding the doubtfulness of citizenship of the complainant, it is noted that the complainant has clearly given his address viz., Shri Edward K. Sangma, Kusimgolgre, Williamnagar. The Respondent-PIO did not deny in his show cause the existence of Kusimgolgre locality of Williamnagar, the District headquarter of East Garo Hills. On the other hand, the Respondent-PIO wanted proof of his Indian citizenship through such documents like castes certificate, EPIC, Nokma certificate of his permanent residence etc. Such requirements by the Respondent-PIO are not in consonance with the provisions of Law. In fact, Section 6(2) of the RTI Act states that **“an applicant making request for information shall not required to give any reason for requesting any information or any other personal details except those that may be necessary for contacting him”**.

The requirements mentioned by the Respondent-PIO are therefore irrelevant; more so, when the Respondent-PIO himself admitted in the show cause that the Complainant may perhaps belong to the State of Nagaland. But Nagaland is very much in India. Therefore, the applicant is an Indian citizen as admitted by Respondent-PIO himself, and therefore, he has every right to access information from the Respondent-PIO. The issue of doubtful identity raised by him is nothing but an excuse for denial of information to the Complainant. Doubt about citizenship is not a valid ground for denial of information under the Law. The PIO has to determine and prove beyond doubt that the person is not a citizen of India to deny him access of information under the Law. The Respondent-PIO does not possess that proof.

The claim of the Respondent-PIO that the nature of information sought by the complainant are risky to furnish to unknown person like him is too farfetched to be appreciated. The Respondent-PIO should have known that the Law has made specific exemptions from disclosure under Sections 8, 9 and 24 of the R.T.I. Act and no other information outside those exemptions can be denied. The grounds for denial of

information put forth by the Respondent-PIO have no relevance to any of the above Sections of the Law and hence not sustainable and unacceptable to this Commission.

Issue No. 3:

The R.T.I. application was duly received by the Respondent-PIO on 9-12-2008. The statutory period of 30 days expired on 8-1-2009. During the above statutory period of 30 days the Respondent-PIO has neither furnished any information or response to the applicant which resulted to the instant Complaint before this Commission. Therefore under the provisions of the Law, refusal/denial of information occurred w.e.f. 9-1-2009. Under the R.T.I. Act, any response, including valid refusal made by the Respondent-PIO should be made within the statutory period of 30 days, otherwise they become invalid action under the Law except the act of furnishing the information which has the effect of reducing the liability of penalty. Hence, in the instant case, failure on the part of the Respondent-PIO to furnish the information or to respond to the R.T.I. application filed by the Complainant within the statutory period of 30 days amounts to refusal of information by the Respondent-PIO.

This Commission vide its Order dated 6-4-2009 have communicated to the Respondent-PIO its findings that the Respondent-PIO had refused information to the Complainant willfully without the sanction of Law and that the Commission had decided that the Respondent-PIO is liable for penalty @ Rs.250/- per day w.e.f. 9-1-2009 (the date of expiry of 30 days) to 23-2-2009 (the date of receipt of the Complaint in this Commission) and from the date of the above Order i.e. 6-4-2009 till the date of furnishing the full information to the Complainant or Rs.25,000/- only whichever is less and the Respondent-PIO has also been asked to intimate the Commission of the date of furnishing the full information to the Complainant so that the amount of penalty could be calculated, failing which, the Commission will be compelled to award maximum penalty under the Law. In response, the Respondent-PIO vide letter No.DISB/Misc/2008/1458 dated 25th May, 2009 stated that:

(1) He had handed over charge of the District Mission Coordinator, SSA-SMAM, East Garo Hills, Williamnagar on 19-5-2009 to Shri B.K. Nag and he has taken over charge on transfer as District Mission Coordinator, SSA-SMAM, South Garo Hills, Baghmara, he

also intimated that he had furnished information to the Complainant on 6-4-2009 along with Rs.11,250/- @ Rs.250/- per day for 45 days with copies to all concerned.

(2) Vide his letter No.EGH/SSA-6/2008/1106 dated 6-4-2009, Shri B.G.Momin, the Respondent-PIO and the then District Mission Coordinator, District Unit, SSA-SMAM, East Garo Hills, Williamnagar furnished the following information to the Complainant:

- (i) Copy of Bank Pass Book – 2007-08. It cannot be produced as it should be maintained secret.
- (ii) Copy of cash book – 2007-08. It cannot be produced as it should be maintained secret, however, you may see personally during office hours.
- (iii) Copy of ledger book. You may see personally during an office hours
- (iv) Copy of Audit report: Enclosed.
- (v) Copy of sanction and approved Plan – 2007-8 & 2008-09: Enclosed.
- (vi) Release of EGS salaries: Copy enclosed.
- (vii) Appointment of teachers: Appointment of Teachers are made by SMCs.
- (viii) Number of schools & VECs – 890 N.S.
- (ix) Report of teachers BRP/CRC/community training: Enclosed.
- (x) Copy of APR of training of teachers and community: You can see personally the vouchers during office hours.
- (xi) Report of contingency expenditure with receipt of EGS Centre: No contingency release so far.
- (xii) Report of teaching and learnt materials: Enclosed.
- (xiii) Report of amount expenditure: Enclosed.

(3) The above letter started with the wording “I am to inform you to collect the information as asked for from the office of DMC, SSA, East Garo Hills, Williamnagar along with Rs.11,250/- @ Rs.250/- per day from 10-1-2009 to 23-2-2009 i.e. 45 days during office hours”.

While this Commission is not bound to take notice of any voluntary act done by the Respondent-PIO whether wrongly or rightly, it is found from the above letter that full information has not been furnished to the Complainant inasmuch as some of the items of information have been totally denied, which, according to the Respondent-PIO, should be

kept secret. This is a flagrant violation of the provisions of the Law by the Respondent-PIO. This only confirms that there is a willful denial of information to the Complainant by the Respondent-PIO in the instant case.

Issue No. 4:

In view of the proven willful denial of information by the Respondent-PIO to the Complainant and his refusal to comply fully with the Order of the Commission dated 6-4-2009 to furnish full information to the Complainant, this Commission hereby confirmed that the Respondent-PIO, Shri B.G.Momin the then District Mission Coordinator, District Unit, SSA-SMAM, East Garo Hills, Williamangar and now District Mission Coordinator, District Unit, SSA-SMAM, South Garo Hills, Baghmara is liable for penalty @ Rs.250/- per day from 9-1-2009 to 23-2-2009 and from 6-4-2009 till 19-5-2009, the date he cease to be the P.I.O., which counts for a total of 88 days, under Section 20(1) of the R.T.I. Act.

Shri B.G.Momin, Respondent-PIO is accordingly imposed a penalty of Rs.22,000/- (250 x 88) (Rs. Twenty two thousand). He is required to deposit the above amount to the Government Treasury at Baghmara under the Head of Account **“0070-Other Administrative Services etc., 60-Other Services, 118-Receipt under the Right to Information Act, 2005 Volume – I under:- (02) Fees & Fines for the Penalty Amount Imposed by the Commission”** in two equal installments of Rs.11,000/- each within the period of 90 days with intimation to this Commission.

The Commission hereby directs the present incumbent P.I.O., Shri B.K.Nag, Deputy Inspector of Schools, East Garo Hills, Williamnagar and D.M.C., District Unit SSA-SMAM, East Garo Hills, Williamnagar to furnish full information to the Complainant within a period of 20 days of the dated of this Order and to report compliance immediately thereafter.

Case disposed off.

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

Memo. No. MIC/Complaint/21/2009/11-A, Dated Shillong, the 12th June, 2009
Copy to:-

1. Shri B.G.Momin, PIO & District Mission Coordinator, District Unit SSA-SMAM, Baghmara, South Garo Hills.
2. Shri B.K.Nag, P.I.O. & District Mission Coordinator, District Unit SSA-SMAM, Williamnagar, East Garo Hills.
3. Shri Edward K. Sangma of Kusimkolgre, Williamnagar, East Garo Hills (Fax -03658-220317).
4. The Deputy Commissioner, South Garo Hills District, Baghmara.
5. The Treasury Officer, Baghmara, South Garo Hills District.

} they are requested
to ensure that the
Penalty amount which
is a Govt. dues be
realized from Shri B.
G. Momin, as ordered
by the Hon'ble
Commission and the
Commission be kept
informed.

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